

PATRONAGE, PROVISION AND RESERVATION:
SCOTLAND AND THE PAPACY DURING THE PONTIFICATE OF PAUL III

THOMAS WATSON GRAHAM

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Department of Scottish History

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SUMMARY

This is a study of relations between Scotland and the papacy during the pontificate of Paul III (1534-49) in the area of ecclesiastical appointments. It deals with the interplay of the various rights of the patrons in Scotland on the one hand and those of the papacy on the other.

The system of papal provision and reservation is examined generally and the history of its operation within Scotland is then outlined. The core of the study is an examination of the working of both local patronage and these papal rights throughout the church. This deals initially with the elective benefices which are considered within the framework of the 1487 Indult and subsequent modifications to that agreement. Subsequently, the non-elective benefices, which were subject to a different range of crown, lay and ecclesiastical rights and to the system of papal reservation, are analyzed in detail.

The picture presented is one in which effective power in appointments largely lay in Scotland. The crown exercised a major influence throughout the whole church, and was extending this through its powers *sede vacante*. Other patrons in Scotland are also found exercising their powers extensively through the system of reservation and provision. Various devices for securing peaceful transfers of possession and for retaining benefices within the hold of particular families are illustrated. At the same time, the system generated litigation at the curia on a large scale, and provided considerable opportunities for challengers, including the Scottish procurators at Rome, to intervene in their own interests in benefice appointments. Despite its growing power, the crown was unable to stem either the traffic in benefices to Rome or the litigation which flowed from that traffic. Patrons in Scotland had to work hard to maintain their rights against challenges made through the system. On the whole however, and with some exceptions, they did so successfully.

ABBREVIATIONS

1. Unpublished Sources

Brev.Lat.	Registers of Lateran Briefs (Vatican Archives)
PRO	Public Record Office transcripts of documents from the Vatican Archives
Reg.Lat	Lateran Registers (Vatican Archives)
Reg.Supp.	Registers of Supplications (Vatican Archives)
Reg.Vat.	Vatican Registers (Vatican Archives)
SRO	Scottish Record Office documents

2. Published Sources

I have adopted here the abbreviations used in the standard *List of Abbreviated Titles of the Printed Sources of Scottish History to 1560* which was published as a supplement to the *Scottish Historical Review* xlii (1963). The titles listed there are not repeated here, but the following are used in addition.

<u>Complete Peerage</u>	<u>The Complete Peerage</u> , new ed. V.Gibbs and others (London,1910-59).
Cowan, <u>Parishes</u>	I.B.Cowan, <u>The Parishes of Medieval Scotland</u> , (SRS,1967).
Eubel, <u>Hierarchia</u>	C.Eubel, <u>Hierarchia Catholica Medii Aevi</u> , 2nd ed. (Munster,1913-23).
<u>Fasti</u>	D.E.R.Watt, <u>Fasti Ecclesiae Scoticanæ Medii Aevi ad annum 1638</u> , 2nd draft (St.Andrews, 1969).
Haws, <u>Scottish Parish Clergy</u>	C.Haws, <u>Scottish Parish Clergy at the Reformation, 1540-1574</u> , (SRS,1972).
Herkless and Hannay, <u>Archbishops</u>	J.Herkless and R.K.Hannay, <u>The Archbishops of St.Andrews</u> , (Edinburgh, 1907-15).
<u>LP Henry VIII</u>	<u>Letters and Papers, Foreign and Domestic, of the Reign of Henry VIII</u> , ed. J.S.Brewer and others (London, 1864-1932).
<u>Thirds of Benefices</u>	<u>Accounts of the Collectors of the Thirds of Benefices, 1561-72</u> , ed.G.Donaldson (SHS,1949).

INTRODUCTION: THE SOURCES

This study is concerned with relations between Scotland and the papacy in the area of ecclesiastical patronage. It is an examination of the interplay and practical effect of two sets of rights relating to appointments to ecclesiastical benefices in late medieval Scotland: the rights of the crown and of local patrons as these had developed through the later middle ages, and papal rights of provision and reservation which had similarly become strongly established. In recent years, work has been published which gives a broad overview of the operation of the systems of appointment to these benefices in the years prior to the Reformation.¹ The particular feature of this study is that it is an examination in detail of the operation of these rights throughout the church in Scotland during a short period, which for practical purposes covers most of the reign of James V and the regency of the earl of Arran.

Relations between Scotland and the papacy with regard to ecclesiastical patronage and appointments have attracted the attention of scholars, particularly since the work of R.K.Hannay in the 1930s.² It has been recognised that any study of the various influences which impacted on such appointments has to labour under the difficulty that there are no records in Scotland corresponding to the series of bishops' registers in England, whose staple diet is the record of institution of

¹ See particularly, I.B.Cowan, "Patronage, provision and reservation: Pre-Reformation Appointments to Scottish Benefices", in Ian.B.Cowan and Duncan Shaw (ed.), The Renaissance and Reformation in Scotland: essays in honour of Gordon Donaldson (Edinburgh, 1983), 75-92.

² R.K.Hannay, The Scottish Crown and the Papacy, (Historical Association of Scotland, 1931); D.E.R.Watt, "The Papacy and Scotland in the fifteenth century", in R.B.Dobson (ed.) The Church, Politics and Patronage in the fifteenth century, (Gloucester, 1984), 115-32.

clergy to benefices and related material, such as resignations, the causes of vacancies and rights of patronage.³ There is thus no continuous administrative record within Scotland to provide a structure for such a study. Evidence from Scotland has to be gradually brought together from disparate national and local sources which, by their very nature, give an incomplete picture. At the highest levels of the church - the bishoprics, dignities and some monastic houses - many of the records are available to give at least a general picture. The difficulties increase as the examination moves to the much larger number of prebends and parish churches further down the church hierarchy.

Fortunately, because of the special relationship which developed between the church in Scotland and the papacy, there are records which do provide the vital administrative core to such a study. The lack of a primate in Scotland until 1472 meant that Scottish clerics had a direct right of access to the Roman curia. Together with the development of papal rights of reservation and provision, this meant that much business relating to ecclesiastical appointments went to Rome. The creation of two archbishoprics in the later fifteenth century appears to have made relatively little difference. The tradition was strongly established and, in any case, these papal rights continued to apply: as a result, the traffic to Rome continued. This is reflected in the various papal registers, where Scottish entries are disproportionately large compared with other European countries.

This study is largely based on these papal records, supplemented by the major printed Scottish sources. They provide the only continuous administrative record relating *inter alia* to ecclesiastical appointments for the Scottish church as a whole. They too have their disadvantages, since they are based on the papal rights of reservation and provision

³ D.M.Smith, Guide to Bishops' Registers of England and Wales,
(London, 1981), ix.

which did not apply to all benefices at all times; as we shall see, however, they did cover a wide range of circumstances and brought a massive volume of traffic to the curia. It was the awareness of the great value of these records which prompted the Ross Fund Committee of the University of Glasgow to build on the pioneering work of Dr. Annie I. Dunlop by establishing a programme in 1961 to identify and microfilm the Scottish entries in the Vatican Archives, and this study is based on the author's own work as part of that programme.⁴

Of these records, the registers of supplications are particularly important because they are "a complete collection and - apart from clerical errors - a faithful reproduction of all the signed original petitions."⁵ As a result, they provide a vast amount of detail on the claims of individuals for benefices, couched - since they were documents designed to convince the curial officials of the right of an interested individual - in partisan, as well as legal, terms. It should be borne in mind too that the granting of a petition, indicated by the sanction *Concessum* if signed by the Vice-Chancellor, or *Fiat* if by the Pope, simply gave a grace of right to the petitioner. It did not ensure that the objective desired by the supplicant would automatically be achieved. Indeed, a feature of the supplications is the number of grants made for the same benefice to different petitioners: the grants themselves created a fruitful source for litigation. For certain confirmation or otherwise of the effects of any petition, we need to look elsewhere.⁶

⁴ A preliminary report of the work undertaken during the 1960s was given in I.B. Cowan, "The Vatican Archives: a report on pre-reformation Scottish material" *SHR*, xlviii (1969), 227-242. Since then, the programme has been completed.

⁵ Calendar of Scottish Supplications to Rome, 1418-22, ed. E.R. Lindsay and A.I. Cameron (SHS, 1934), xiii.

⁶ A valuable discussion of the procedures surrounding the submission and acceptance of supplications and to the various forms of supplications is provided by Dr. A.I. Dunlop in CSSR, i, Introduction, xi-xxv.

Some of the additional evidence can be found in the registers of papal letters. The two series of registers of bulls are much less complete than those of supplications. Many petitions were never followed up by corresponding bulls; some registers have been lost. There is also extensive evidence of original bulls which are extant but which do not appear to have been registered.⁷ The absence of any record of a papal letter in the two series, the Vatican and Lateran Registers (the latter begun as the letters of the "Roman" popes during the Great Schism), does not necessarily mean that no such bull ever existed. Where a letter is registered, however, it does provide evidence of the petitioner's cause having been carried further down the road to achievement, though not by any means to guaranteed success.

Two further sets of Vatican records have also been used extensively in this research. The series of *Resignationes* and of *Consensi*, both of which consist of resignations in favour of a third party, provide valuable back-up to the many resignations recorded in the supplications. Secondly, the financial records of the papacy help to provide a fuller picture through the *Obbligazioni per servizi comuni*, the records of the promise to pay common services, due on consistorial benefices, and the corresponding records for non-consistorial benefices, the *Annate*, recording the payment of first fruits or annates.

The Vatican documentation is critical not only because of its scale, but particularly because of the light only it can cast on the system of reservation and provision. But these records, on their own, tell only part of the tale. This examination of the operation of the appointments system has also made use of a number of printed Scottish source materials. The royal letters and the register of the privy seal in particular are of special value in providing evidence of the operation of

⁷ L. Boyle, A Survey of the Vatican Archives and of its medieval holdings, (Toronto, 1972), 105. This provides both bibliographical and more general guidance on all the relevant Vatican records.

rights of crown patronage within Scotland, and enables this study to provide a fuller picture of the outcome of the cases discussed, especially where there was litigation between rival claimants.

The study pivots round the various rights of patrons and the papacy, which both have a history over several centuries. It is to this history that we should first turn to provide the necessary background to the examination of their operation in detail.

CHAPTER 1

PROVISION AND RESERVATION

I¹

The system of papal provision had its roots in the mid-twelfth century, in the practice adopted by the popes of intervening to obtain the grant of a benefice for a particular clerk, usually a member of the curia. Initially such interventions took the form of recommendations, but these rapidly gave way to orders. The Third Lateran Council of 1179, however, marks the first formal stage in the development of the system of provision, in a decree which stated that provision to an ecclesiastical office was to pass to the next higher authority in the hierarchy if a patron failed to fill the vacancy within a particular time. Thus, if a bishop failed to fill a vacant benefice in his diocese within six months of the vacancy occurring, the archbishop was to do so; if local prelates failed to fill a vacancy, the right to do so devolved to the pope. This decree reflected the influence of current ideas of papal authority, associated particularly with Innocent III, who established the general principle which underpinned the ideas of papal provision and reservation: the *plenitudo potestatis* which was the doctrine of the universal power of the pope 'set in the middle between God and man, less than God but greater than man', and effectively gave the papacy the right to

¹ The sources for the first part of this chapter are: G.Mollat, Lettres Communes de Jean XXIII (1316-34). Introduction. La Collation des Benefices Ecclesiastiques a L'Epoque des Papes d'Avignon (1921); G.Barraclough, Papal Provisions (Oxford, 1934); D.Hay, Europe in the fourteenth and fifteenth centuries (London, 1966); W.E.Lunt, Papal Revenues in the Middle Ages (New York, 1934); C.H.Lawrence (ed.), The English Church and the Papacy in the Middle Ages (London, 1965); J.A.F.Thomson, Popes and Princes 1417-1517: Politics and Polity in the late Medieval Church (London, 1980).

confer a benefice on a particular person without the agreement of, and even against the wishes of the ordinary collator. In the early thirteenth century, this power was used only in appointing to individual benefices. The decretal Licet Ecclesiarum, promulgated by Clement IV in 1265, was an important further development in two ways. It was the first specific statement of the right of *plenitudo potestatis* in relation to appointments to benefices, although the power had been exercised for many years. It was also the first extension of the theory to whole classes of benefices, thus adding the concept of general reservation - capable of considerable expansion - to that of provision.

The decretal reserved to the papacy the provision of churches, dignities, chief offices and other benefices whose holders died at the Holy See. It was stated that this was an established custom, although the evidence to prove this is lacking.

This constitution was not rigorously observed. Gradually, however, the power of general reservation was extended to cover other groups of benefices.² Boniface VIII, by the constitution Praesenti of 1295, reserved the benefices of legates and apostolic nuncios during their mission, and those of all people coming to or going from the Holy See who died within two days' journey of the curia. He also decreed that benefices of 'curiales' who took ill at court, were unable to travel with the court and died, regardless of the distance from the location of the curia at that time, should also be reserved. The term 'curiales' included not only papal officials but also clergy in residence at the papal court to transact business.

² I have been greatly assisted in elucidating points of detail in the constitutions extending papal reservations by correspondence with Michael Haren, editor of the Calendar of Papal Letters.

In 1305, Clement V specified the classes of benefices which would be regarded during his pontificate as being vacant *apud curiam* if the holders died at or within two days' journey of the Holy See. These included patriarchal, archiepiscopal and episcopal sees, monasteries of which the heads were normally elected, priories, cathedral dignities, offices, canonries and prebends, churches with or without the cure of souls, of whatever kind. Much of this constitution, Etsi in temporalium, simply repeated the principles of earlier reservations, presumably so that there would be no room for a plea of ignorance. These had not, however, specifically mentioned patriarchal, archiepiscopal or episcopal benefices, though in practice, popes had regarded these as being reserved. At some unknown date, Clement also reserved to his provision benefices vacant by death or cession, wherever these occurred, of cardinals, papal chaplains, pontifical officers and apostolic nuncios. To these were added benefices vacant by registration, transfer or exchange at the Apostolic See or in the hands of the pope, and those benefices vacated because their holders had received consecration as bishops at the Holy See.

John XXII accepted all the general reservations made by his predecessors. In the constitution Ex debito of 1316 he took a further step. This reserved all benefices, major or minor, which lost their holders by deposition or deprivation, resignation in the hands of the pope or by provision or transfer to another benefice. This constitution was a real extension of the concept of *apud curiam* in that most of these circumstances could only arise as a result of direct papal action and might also occur far from the curia. It also stated that all benefices vacated by the reception of consecration or benediction by his predecessor, Clement, at the Holy See, or anywhere else or by any other method, and not disposed of by him,

would be included in his papal reservation. Up to that time, the rights of ordinary collators had not been much threatened. The extensions of the notion of *apud curiam* contained in these reservations, however, greatly increased the number of vacancies. For example, many bishops held more than one benefice prior to consecration and these now fell into the net of reservations. John also tightened up some details of the system. Gregory X, for example, had allowed ordinary collators to fill reserved benefices not disposed of within a month of voidance. This was stopped by the 'non obstante' clause of Ex debito. Furthermore, in the constitution Execrabilis of 1317, John, in an attempt to tackle the problems of pluralism, forbade accumulation of benefices which required papal dispensation to be held in plurality. Those benefices which were resigned as a result of this constitution were then reserved to papal disposal. Despite the apparent strictness of this ruling, many dispensations from it were, in time, granted. All in all, however, John's pontificate greatly increased the possibilities for papal control over the disposal of benefices.

With these prescriptions, the system of papal reservation was virtually complete. Very few general categories appeared to have been omitted from the papal net. At the same time, however, the fact that these general reservations often appear to overlap with those made by predecessors argues some weakness in the system. Benedict XII tried to close loopholes left by earlier constitutions; in 1335, he reserved to the papacy the disposal of benefices vacated by the death anywhere of auditors of causes in the apostolic palace in addition to the categories of officials whose benefices were already reserved, and also of rectors and treasurers of the Church appointed by himself or previously by John XXII. Urban V, in 1362, reserved the benefices, wherever they fell vacant, of papal collectors and

deputy collectors. Urban also made a general reservation of all patriarchal, archiepiscopal and episcopal churches exceeding the value of 200 florins annually, and of all monasteries of men exceeding the value of 100 florins a year. In the following century, Martin V raised the value limit for monasteries to 200 florins, possibly in response to conciliarist pressure. These limits were also followed by his successors, Eugenius IV and Nicholas V, although later in the century, a return to the 100 florin limit for monasteries seems to have occurred. This group of benefices - the cathedral churches and the major monasteries - were presumably classed together as a group because they were what was known as consistorial benefices. This title explained their common characteristic: the appointment or confirmation of their holders was to be made by the Pope 'according to custom in his Secret Consistory', that is, in the conclave of Cardinals.³ Lesser benefices, which did not require confirmation of this kind were regarded as non-consistorial. In addition, Gregory XI reserved benefices vacated by entrance into a religious order. One further significant development of the system of papal reservation was also established in the fifteenth century. This was the concept of the reservation of months which became one of the chancery rules under Nicholas V. Under this, benefices which fell vacant in certain months were reserved to papal disposition, while for the remaining months they were at the free disposition of ordinary patrons. There was some variation in the operation of the reservation: in Scotland, for example, the months normally available to the ordinary were March, June, September and December.⁴

³ A.I.Cameron, The Apostolic Camera and Scottish Benefices, 1418-1488 (Oxford, 1934), xiii.

⁴ St. Andrews Formulare 1514-46, ed. G.Donaldson and C.Macrae (Stair Society, 1942-4), i, no. 193.

Thereafter, the system in theory remained the same, although both before and after Gregory XI, theory and practice could differ widely. These claims of the papacy with regard to provision and reservation were not completely accepted throughout Europe since they threatened royal and other secular rights of patronage. In England, for example, such opposition was formulated in the statutes of Provisors of 1351 and Praemunire of 1353. In practice, Edward III had by diplomatic means already secured effective control over appointments to bishoprics and established a working compromise with the papacy over those to other major benefices which on the whole operated effectively so far as the crown was concerned. The statutes were primarily the result of parliamentary pressure and, although they did limit papal provisions in the latter part of the century, they were primarily useful to the king as a potential weapon in his dealings with the pope.⁵ In the fifteenth century, this pattern of relationships continued unchanged, with the sole exception of Martin V's unsuccessful attempt between 1419 and 1426 to obtain the abolition of the Statute of Provisors.⁶ The crown, if anything, strengthened its hold over episcopal appointments, which was increasingly taken for granted despite periods of royal weakness and the ensuing turbulence. At the same time, the validity of papal authority was not really questioned, and papal jurisdiction in

⁵ W.A.Pantin, The English Church in the Fourteenth Century (Cambridge, 1955), 65-70, 76-98; W.A.Pantin, 'The Fourteenth Century' in C.H.Lawrence (ed.), The English Church and the Papacy in the Middle Ages (London, 1965), 188-191.

⁶ R.G.Davies, 'Martin V and the English Episcopate, with particular reference to his campaign for the repeal of the Statute of Provisors', Eng. Hist. Rev., xcii (1977), 309-44.

benefice appointments continued to be exercised and accepted throughout the church.⁷

In France and Germany, the situation was slightly different in that royal rights had not previously been asserted so formally as in the English statutes. Similar tendencies were however at work in these countries, and these were strengthened by the agreements made at the Council of Constance, where papal reservations figured in the list of areas for reform. The concordats with the French and German nations, promulgated in 1418, reduced the range of papal reservations, although the nominal beneficiaries of this were the chapters and ordinary collators rather than kings and princes. At a time when the conciliar movement was already in decline, the Pragmatic Sanction of Bourges, ordained in 1438, accepted the reforms of the Council of Basel and abolished papal reservations in France. These concordats essentially provided the potential for three-cornered disputes between the crown, the papacy and local interests. In practice, French kings found the Pragmatic Sanction a useful weapon in negotiations with the pope and ignored it at other times. Louis XI revoked it twice in 1461 and 1472, reflecting the working agreement which developed between the king and the papacy, which in practice effectively excluded the influence of ordinary collators and operated in much the same way as the tacit understanding between the papacy and English kings. Although the revocations on both occasions were subsequently abrogated, it is clear that by the end of the century, the French crown had control of appointments to major benefices, and that both ecclesiastical independence and papal influence were of minor significance in

⁷ F.R.H. du Boulay, 'The Fifteenth Century' in C.H. Lawrence (ed.), The English Church and the Papacy in the Middle Ages (London, 1965), 220-227.

France. In Germany, the picture is rather more confused. After the healing of the Great Schism, a period of general support for the conciliar reforms was followed by a declaration of neutrality between the pope and council by the electors, a policy also followed by the emperor. The dislike of papal policies in Germany was, however, demonstrated in the *Acceptatio* of Mainz in 1439, which largely accepted the reforms of the Council of Basel as the Pragmatic Sanction had done in France. The Concordat of Vienna of 1448 in theory divided collations between the pope and ordinary collators, without assigning any rights to the secular rulers, but it is clear that the Emperor and princes rapidly established effective dominance over ordinary collators and gained an increasing hold over appointments to major benefices within their lands.⁸

Throughout Europe, therefore, from the end of the fourteenth century onwards, the system of papal reservation and provision, whilst remaining operational, was effectively being eroded. The papacy came to accept arrangements which gave kings, princes and magnates the dominant influence in making appointments to benefices while generally leaving its nominal authority unchallenged. The effectiveness of the system was fatally weakened by the actions of the Avignon papacy and by the Great Schism: the papacy lost its universal character during its residence in France, and the unity of Christendom was shattered by the Great Schism. The increasing financial demands of the popes, necessitated by dwindling resources, made the system of papal reservation, to which these demands were linked, increasingly unpopular. The authority of the popes in Europe was weakened in succession by the Great Schism, the admittedly

⁸ D.Hay, Europe in the fourteenth and fifteenth centuries (London, 1966), 295-8. J.A.F.Thomson, Popes and Princes 1417-1517 (London, 1980), 145-65.

temporary rise of the conciliar movement, and the involvement of the papacy in the internal politics of Italy in the fifteenth century.

II

In Scotland, the effects of these developments have not yet been fully analyzed.⁹ A general review of the evidence for the period from the accession of James I in 1424 to the Indult of 1487, however, suggests that the same spirit of uneasy co-operation was to be found in relations between the Scottish kings and the papacy as elsewhere in Europe. This leaning towards co-operation was perhaps more understandable given the special relationship of the Scottish church with Rome prior to 1472. There was indeed a certain tension in the relationship in view of the fact that crown and pope had divergent interests in terms of both authority and finance, and there were several disputes between them, but these tended to be the results of special circumstances and should be seen at least partly in this context, rather than in terms of a continuous struggle between the papacy and the Scottish crown. It was a relationship, however, in which the crown essentially had the upper hand and, as a result, royal control over appointments to major benefices strengthened through the fifteenth century as happened in other European countries.

The papacy, however, could and did take advantage of periods of royal weakness to exercise its authority. Martin V, for example, encouraged recourse to Rome after 1418. It was this activity which stimulated James I to endeavour to curb the scale of traffic to Rome

⁹ For the background to this, see R.K.Hannay, The Scottish Crown and the Papacy, 1424-1560 (Historical Association of Scotland, 1931); ADCP, Introduction, xlv-liv; CSSR, iii, Introduction, xiii-xxi; D.E.R.Watt, 'The Papacy and Scotland in the Fifteenth Century' in R.B.Dobson (ed.), The Church, Politics and Patronage (Gloucester, 1984).

arising from the system of reservations by restricting the export of money and only allowing clerical communication with Rome by royal licence in a series of acts of parliament. In these, he created the offence of "barratry", the unlawful and unauthorised pursuit of promotion or emoluments by "purchase". In practice, however, this legislation was difficult to enforce and effectively lay dormant. From the crown's point of view, it was perhaps seen more as a useful weapon to assert its authority when necessary than a policy which was continually pursued. The dispute between James I on the one hand and both Martin V and Eugenius IV on the other involving the royal chancellor, Bishop John Cameron of Glasgow, and William Croyser, archdeacon of Teviotdale, an inveterate benefice-hunter at Rome, may have been one of principle relating to this legislation, or may have been more the result of Croyser's persistence in seeking and obtaining formal papal assertions of authority to bolster his own activities at the curia. But with Martin at least, the end result was compromise which left the legislation intact; whether the same result could have been achieved with Eugenius is uncertain because James was murdered before the issue was concluded. Before his death, opinion in the Scottish church on the merits of royal policy may have been divided, and he may have lost a certain amount of ecclesiastical support by, for example, arraigning Croyser before a secular court. In any case, papal rights of reservation and provision were not challenged in the period of royal weakness following James's death.

A study of the relationship based primarily on the evidence of royal legislation might suggest that financial motives were at the root of thinking on both sides. This, however, is only part of the story. As with other European powers, it is likely that royal authority was also regarded by the crown as being at stake: the power of ideas of kingship and of emerging nationalism should not be underrated. At a

lower level, too, it was the growing power of the laity and the authority of local families in particular which were challenged by papal claims. The nature of the financial element in the struggle may also have been misunderstood. It is questionable whether the crown was unduly worried by the amount of money going to Rome specifically in promotion taxes. Although this was undoubtedly part of the intention of the system of reservation and provision at the time, the sums which actually went to Rome in these fees were considerably smaller than those promised. More money probably went to the curia in the form of the litigation costs of the many disputes which arose from the claims of reservation. Royal action in the fifteenth century was therefore aimed at trying to cut out the rival claimants for benefices who caused such litigation. James I, as has been seen, insisted that no clerk should go or send his procurator overseas 'but special leif of our lorde the king askit and obtenyt.'¹⁰ The fact that there were still many disputes over benefices, however, suggests that the crown was not entirely successful in achieving this aim.¹¹ On the papal side, several claimants for any benefice enabled the pope both to maintain his claim to the rights of reservation and provision, and also to obtain financial benefits from the ensuing litigation fees. Thus the twin problems of authority and finance concerned both sides in the dispute and, until some compromise was reached on both these issues, the tension, however dominant, between the crown and the papacy was bound to continue.

The number of cases concerning benefices of all kinds which were heard at Rome might suggest that the papacy was given ample

¹⁰ W.C.Dickinson et al, A Source Book of Scottish History (Edinburgh, 1958), ii, 84.

¹¹ See CSSR, i and CSSR, ii, *passim*, for examples of petitions from various claimants for benefices.

opportunity to assert its authority. Nevertheless an examination of such cases makes it clear that, by the 1430s, the effective voice in most ecclesiastical appointments was Scottish rather than papal.¹² Although this view is based on the evidence for the early fifteenth century, it seems unlikely that an examination of the evidence for the period up to the Indult of 1487 will alter this general conclusion. If this is correct, it suggests that, having already effectively obtained control over major appointments, the crown was now seeking the recognition of its authority by the papacy and the decline in litigation which it might expect would follow this formal recognition of royal and local authority. James II's demands for the confirmation of his rights of presentation to all benefices in ecclesiastical patronage during episcopal vacancies, which had been accepted by the bishops in 1450 and ratified by the provincial councils of the 1450s, suggest a concern on the part of the crown with the formal recognition of royal authority.¹³ Studying the evidence from the other point of view, the records for the 1420s and 1430s suggest that it was very unlikely that a papal providee would secure a benefice without approval in Scotland as well.¹⁴ It is also true, however, that papal provision was often sought by a holder appointed in Scotland after possession had been gained 'de facto'. This formal ratification of a title was primarily intended to obtain greater security of possession and also, in some cases, a reduction in the cost of litigation at Rome which might result from inadequate legal backing for the possession. The holders may have hoped to avoid such litigation altogether and

¹² See CSSR, iii, Introduction, xv.

¹³ See G.Donaldson, 'The rights of the Scottish Crown in episcopal vacancies', SHR, xlv (1966), 27-35; also personal communication from Professor Donaldson to Professor I.B.Cowan.

¹⁴ See CSSR, iii, Introduction, xv.

on some occasions may have been successful. But, in many cases, this action must only have reduced the number or persistence of other claimants. In addition to the legal fees thus incurred, such litigation often involved the cost of buying off rivals with pensions from the fruits of the benefice. Many of the litigants indeed can only have hoped for pensions obtained by this means when they challenged the holder of a benefice.¹⁵

In the reign of James III, the disputes between the crown and the papacy came to a head, initially over a group of consistorial benefices, the major monasteries, which the rules of chancery had reserved to the papacy.¹⁶ These rules, which affected what the Scots called 'free election', by which they effectively meant strong royal and baronial influence over appointments and no papal interference, had not caused serious disputes in James II's reign. In 1466, however, Pius II deposed Henry Crichton abbot of Paisley, for non-payment of a pension to the Cardinal of St. Mark's, reserved the abbacy and then provided Patrick Graham, Bishop of St. Andrews *in commendam*. The motive behind this is unclear; to what extent it can be attributed to Graham's desire to hold such a benefice along with his bishopric or to papal intervention at a time of uncertainty as the Boyds were taking power. At any rate, crown and parliament responded with legislation against the purchase of benefices *in commendam* and the export of money. Having forced the resignation of Graham and the restoration of Crichton in 1469, the pressure was maintained by further acts forbidding the impetration of benefices usually confirmed within Scotland and, in 1471, branding those who sought abbeys at Rome as traitors. Whether the elevation of

¹⁵ See *CSSR*, iii, Introduction, xx.

¹⁶ See *ante*, p. 10

St.Andrews to metropolitan status which followed this legislation was a papal response to these warnings initiated by the personal ambitions of Patrick Graham or, as has recently been suggested, a papal response to a request from James III as he reached his majority and sought to establish his hold on the church, is a matter for debate.¹⁷ In any case, it was the king's wishes which were eventually satisfied. Although Graham was also provided in *commendam* to Arbroath, his mental instability soon led to the appointment of William Schevez as coadjutor and successor and the subsequent deprivation of Graham.

Sixtus IV, however, like his predecessors, attempted to exercise his authority when Scotland was politically unstable in the 1480s by using his powers of provision to overturn nominations to bishoprics made in Scotland. Provisions to both Glasgow and Dunkeld were made in this way in 1483;¹⁸ the refusal of the papacy to release William Elphinstone's bulls for the bishopric of Ross in 1481 and the delay in releasing those for Aberdeen in 1483 because of his failure to pay the common services due from his predecessors may indicate a further exercising of papal power.¹⁹ Although one of these disputed appointments may reflect dissension between James III and the Duke of Albany, it was primarily the anger aroused in Scotland by the actions of the papacy seizing this moment of royal weakness to make episcopal appointments and delay others without concern for royal wishes which encouraged the crown and a less authoritarian pope,

¹⁷ J.A.F.Thomson, 'Some new light on the elevation of Patrick Graham', *SHR*, xl (1961), 83-88; D.E.R.Watt, 'The Papacy and Scotland in the Fifteenth Century', 123-126.

¹⁸ J.A.F.Thomson, 'Innocent VIII and the Scottish Church', *IR*, xix (1968), 23-25.

¹⁹ L.J.Macfarlane, William Elphinstone and the Kingdom of Scotland 1431-1514 (Aberdeen, 1985), 79,131; J.A.F.Thomson, 'Innocent VIII and the Scottish Church' *IR*, xxix (1968), 23-25.

Innocent VIII, to consider the need to formalize the relationship between them.

The Indult of 1487 was the result of the negotiations which followed these disputes.²⁰ This stated that papal provision to consistorial benefices, namely to cathedral churches and to monasteries of greater value than 200 florins *auri de camera*, would be delayed for eight months to allow James and his successors to suggest an acceptable holder for each benefice. Throughout the fifteenth century, there had been almost no challenge to royal control over appointments to bishoprics; now in 1483, there were two in quick succession and the papacy showed little inclination to withdraw when challenged. These disputes represented a serious break with customary practice and a real challenge to royal authority. The Indult was effectively the Scottish version of the earlier agreements made by the Popes with other European rulers. The crown above all established in writing its right to have its recommendations heard and in all probability accepted with regard to these major benefices, thus re-establishing on firmer ground its authority in appointments to bishoprics, temporarily challenged in 1483; the monasteries were probably included because of earlier disputes over them. In addition, the crown if it wished was assured of the temporal revenues from the vacancies for these eight months: in practice, however, the Scottish kings usually nominated candidates quite quickly because greater financial benefit could be obtained by tapping the spiritualities, which were worth more than the temporalities, for pensions. The papacy in its turn, while formally acknowledging the reality of royal authority, obtained confirmation of

²⁰ For the text, see Herkless and Hannay, *Archbishops*, i, 157-8; see also J.A.F.Thomson, 'Innocent VIII and the Scottish Church', 23-31.

its own rights of provision, and thus secured papal rights to the promotion taxes, with the added advantage that long vacancies and subsequent delays in payment were unlikely. Thus both the crown and the papacy, having settled the issue of authority for the immediate future, concentrated more on the financial gains which might be obtained from the new situation.²¹

The Indult had not specifically committed Innocent's successors, but the Scottish crown acted on the assumption that it did. James IV's government informed Alexander VI that they intended to have it observed and also proposed to make the Indult cover all elective benefices and not only consistorial benefices. This would widen the scope of the crown's influence, since elective benefices - those to which the holders were elected by members of the religious community concerned - included not only the consistorial benefices, but also heads of lesser religious houses, the holders of major administrative offices in monasteries, and deans in cathedral churches. At the same time too, the Indult had only been concerned with papal rights of provision and royal authority. It had not dealt with the general rights of reservation, and it was these rights which stimulated the passing of benefice litigation and thus of money from Scotland to Rome. In practice, it is clear that the various earlier acts of parliament were being evaded and there was little diminution in the amount of litigation after 1487.²² It has been pointed out that new devices such as *resignatio in favorem*

²¹ For a general comment on this, see CSSR, iii, Introduction, xiv-xxi; I.B.Cowan, 'Patronage, Provision and Reservation, Pre-Reformation Appointments to Scottish Benefices', in Ian B.Cowan and Duncan Shaw (ed.), The Renaissance and Reformation in Scotland: essays in honour of Gordon Donaldson (Edinburgh, 1983), 76.

²² This is clear from an examination of the supplications of Clement VII's pontificate by Mr T.Smyth.

effectively limited vacancies and the rights of patrons.²³ It has not, however, been recognized that this was a two-edged device: it also limited the effectiveness of papal rights of reservation. Nevertheless, the government was sufficiently concerned to reintroduce the system of crown licence for those wishing to seek benefices at Rome. This may have been no more than a purely formal act and it certainly had little effect.²⁴ Licences were occasionally sought and granted, but in most cases, petitions were made without any attempt to obtain such royal approval.

In general, the Indult was maintained throughout James IV's reign. With the weakening of royal authority after Flodden, however, there were some attempts within Scotland at election without crown licence. In 1518, for example, the canons of Dryburgh and Scone attempted to elect abbots without royal permission. The Dryburgh canons were prosecuted and put to the horn,²⁵ and the royal advocate claimed that the Scone election was against the king's privilege.²⁶ An election was later made to the abbacy of Coupar Angus without crown licence. The abbot of Melrose, as commissary-general of the Cistercians in Scotland, confirmed the election at the time, but in 1524 he was probably forced to annul this confirmation. The offending monk, Alexander Spens, was put to the horn for pursuing his title to the abbacy and was charged to renounce his right.²⁷

²³ R.K.Hannay, 'The Scottish Crown and the Papacy', 10; Source Book, ii, 89.

²⁴ ADCP, Introduction, xlix, Source Book, 89-90; I.B.Cowan, 'Patronage, Provision and Reservation in Pre-Reformation Appointments to Scottish Benefices', 82-83.

²⁵ ADCP, Introduction, lv; ibid, 130-131.

²⁶ ACDP, 113.

²⁷ ADCP, Introduction, lv; ibid, 197; St.Andrews Form., i, 55-56; Spens was put to the horn, 17 Oct. 1526 (ADCP, 252).

More important than this native display of independence from royal authority was the policy adopted by Leo X, taking advantage of the confused political situation after James IV's death. The details of the provision to St. Andrews first of Leo's nephew, Cardinal Cibo, then of Andrew Forman are not of concern.²⁸ What is significant is that, despite the formal agreement in the Indult which seemed to have finally established a relationship which gave the crown a firm hold on appointments to major benefices, the papacy was reverting to earlier fifteenth-century practice and seizing the opportunity of political weakness to assert its claim to provide to such benefices without regard to royal recommendations helped by a counter-recommendation by rival authorities in Scotland. Claims to the priory of Whithorn and the abbacy of Arbroath were also put forward at Rome. Leo's policy threatened both royal authority and royal finance. The Regent Albany was determined to win this struggle. In January 1519, Leo capitulated, confirming the Indult in perpetuity.²⁹ The following year, he was also compelled to annul all provisions made in breach of the Indult and specifically to preclude for the future any dealings in prelacies by resignations *in favorem* made without crown licence during the 8 months following their voidance.³⁰ Albany made a formal act of obedience to the pope only after he had obtained this recognition of royal authority. The authority of the government in relation to the church increased under Albany's rule between 1515 and 1524. In 1515, the lords of Council allowed him to uplift the spirituality of vacant bishoprics and abbacies, a power

²⁸ Herkless and Hannay, Archbishops, ii, 73ff.

²⁹ James V Letters, 68.

³⁰ ADCP, Introduction, li.

specifically renounced by James II in 1450.³¹ Albany kept St.Andrews vacant for twenty-seven months and Dunkeld for twenty-four to get maximum financial advantage from this arrangement. By 1523, the pope had been forced to grant him this right because he was powerless to prevent him taking it.³² In 1526, an Act of Parliament specifically claimed that 'nomination' pertained to the king; this is symptomatic of the growing confidence of the Scottish government.³³

This was the strong position which was inherited by James V when he escaped from the control of Angus in 1528 and took personal charge of affairs. The final stages in the growth of royal power came in the 1530s. The developments occurred essentially for two reasons; on the one hand, James V wished to assert his authority over the church as his predecessors had done, and on the other, by the late 1520s, the chronic financial difficulties of the crown desperately required solution.³⁴ In this serious economic crisis, James was able to use special circumstances in Europe and the religious policy of Henry VIII in England to good effect in obtaining concessions from the Pope. Papal power was seriously weakened by the spread of Lutheranism in Germany and subsequently by the Pope falling into the hands of the Emperor following the Sack of Rome in 1527. More important still, the gradual moves in England towards

³¹ G.Donaldson, 'The rights of the Scottish Crown in episcopal vacancies', 33.

³² ADCP, Introduction, liii, 191; R.K.Hannay, Scottish Crown and the Papacy, 11.

³³ Source Book, 90.

³⁴ For the reasons for these particular difficulties, see W.Stanford Reid, 'Clerical taxation: the Scottish alternative to dissolution of the monasteries, 1530-1560'. Catholic Historical Review, xxxv (1948), 130-133; J.Wilson Ferguson, 'James V and the Scottish Church', in T.K.Rabb and J.E.Siegel, Action and conviction in early modern Europe (Princeton, 1969), 54.

breaking away from Rome culminated in the Act of Supremacy of 1534, which made Henry VIII Supreme Head of the Church of England, and which finally cut the link with the papacy.³⁵ In this situation, the popes were in a position to offer little more than token resistance to James's requests. The Scottish king exploited Clement VII's difficulties first of all to obtain papal approval for his policy of clerical taxation, notably in 1531 and 1532.³⁶ He was not completely successful in vindicating the long-claimed right of royal presentation *sede vacante* to benefices in ecclesiastical patronage, accepted by the Scottish church in 1450. An appeal in 1531 against the exercise of this right in the case of a mensal church belonging to Dunkeld led not only to a protest by clerical members of the council, but also to papal pressure through the nuncio, Sylvester Darius. As a result, in the 1532 parliament, the customary initial act for the conservation of the liberties of the church was more precise and elaborate than usual, and the nuncio was careful to obtain a certified copy of the act.³⁷ Another long-standing source of complaint was the number of benefice disputes which were called immediately to Rome. In 1532, James secured from the Pope the right to appoint clerical judges to hear such cases in the first place in Scotland, though the right of appeal to Rome remained.³⁸ As will be seen, plenty of such disputes did pass at some stage, to Rome, so the effectiveness of this measure may have been small. Finally, in 1535, Paul III, faced with the

³⁵ The effect of the English Reformation on Scottish affairs is examined in Charles Stewart, 'James V and the Reformation in England', The Stewarts, xi (1962), 240-272.

³⁶ W.Stanford Reid, 'Clerical taxation', 129-153.

³⁷ ADCP, lii, 379; R.K.Hannay, The College of Justice (Edinburgh, 1933), 55-56.

³⁸ ADCP, lii; C.Stewart, 'James V and the Reformation in England', The Stewarts, xi (1962), 246-7.

defection of Henry VIII, was determined to retain the allegiance of the Scots at almost any price, and therefore made the most important concessions dealing with the provisions of the Indult. On 7th March, he explicitly recognized the *ius nominandi*, the right of nomination, a rather firmer statement of what had been the privilege of recommendation. He did manage to resist James's pressure to be allowed to take both the temporalities and the spiritualities as Albany had done, and the bull only allowed the crown the temporalities, but it granted this right for a full year.³⁹ A further bull, clearly associated with this last provision, extended the eight months of the Indult to twelve.⁴⁰ A symbolic token of the Pope's desire to prevent Scotland following the English path was the presentation by Paul to James of the cap and sword blessed by the pope at Christmas of the following year.⁴¹ These grants determined the relationship between the Scottish crown and the papacy particularly with regard to the major benefices until the Reformation, covering in one way or another almost all the questions which had been at issue between them since 1400. The power of the crown was firmly established and the extent to which papal claims were translated into reality had become smaller.

With regard to non-elective benefices, the scope of papal rights could be varied, since the papacy could delegate these to an individual for a specified time. During this period, for example, Clement VII granted William Stewart, bishop of Aberdeen, the right to present to benefices in the church of Aberdeen during his lifetime in

³⁹ R.Keith, Church and State, i, 461-4; English summary in James V Letters, 285.

⁴⁰ ADCP, 466, Entry for 23 Feb. 1538. Neither this bull nor that of 7 March 1535 has been found in Lateran or Vatican Registers: they may be amongst those bulls which were lost.

⁴¹ James V Letters, 328; C.Burns, 'Papal gifts to Scottish monarchs: the Golden Rose and the Blessed Sword', IR, xx (1969), 181-3.

the alternate months beginning in February, thus varying the months established in the fifteenth century.⁴² Similar rights were granted to his successor, William Gordon, in 1545, to Robert Caincross, bishop of Ross, in 1541, and Andrew Dury, bishop of Galloway, in 1543.⁴³ Paul III also granted David Beaton an indult on 4 February 1539, giving him the right to confer benefices which were at his disposition as coadjutor of St. Andrews, commendator of Arbroath and bishop of Mirepoix.⁴⁴ More significantly, following a long series of requests from James V dating back to the late 1530s, Paul III was finally persuaded by the scale of the threat from England to appoint Beaton as legate *a latere* to the kingdom of Scotland on 30 January 1544.⁴⁵ The Cardinal was given extensive powers with regard to benefices, embracing the right to make provisions to the lesser benefices however they fell vacant and regardless of patronage, and to monasteries up to the value of 2000 ducats. The grant did not, however, include the greater prelacies with regard to which Beaton himself asked the Pope to adhere to the requests of the earl of Arran, by now Governor of the kingdom, a move which presumably indicated a measure of co-operation between the Cardinal and the Governor with regard to ecclesiastical appointments.⁴⁶

All this suggests a gradual shift in control of appointments to the lesser, as well as the greater, benefices towards Scotland. At

⁴² I.B.Cowan, 'Patronage, provision and reservation', 83.

⁴³ Gordon on 8 Oct. 1545 (Reg. Supp. 2497, f.234^V); Cairncross on 28 May 1541 (Reg. Supp. 2426, f.178^V); Dury on 23 Nov.1543 (Reg. Supp. 2497, f.234^V).

⁴⁴ Reg.Vat.1694, f.67-69; St.A.Form., ii, 426.

⁴⁵ LP Henry VIII, xix, pt 1, no.75; PRO State Papers, 49/7; PRO 31/10-14/113.

⁴⁶ M.H.B.Sanderson, Cardinal of Scotland, David Beaton c.1494-1546 (Edinburgh, 1986), 118.

the same time, much power still lay in theory with the papacy and this potentially provided scope for continued traffic in benefices to Rome.

The major formal agreements between the crown and the papacy in the previous half-century had been concerned, however, with the consistorial benefices. It is appropriate, therefore, to begin this examination of ecclesiastical appointments by studying the highest offices in the church, the bishoprics.

CHAPTER 2

THE BISHOPRICS¹

Papal influence in making appointments to the important Scottish benefices had been much weakened by the failure of Leo X's attempt to assert his authority against Albany. The bull of March 1535 was essentially a formal recognition by the pope of an existing situation which he realized it was impossible to challenge in normal circumstances. This recognition made it less likely that the papacy would in future challenge the crown in any appointments to bishoprics.

A study of such appointments throughout the 1530s and 1540s indicates that there is no evidence that the papacy ever successfully provided a candidate of its own. On the other hand, looking first at the reign of James V, there were certainly occasions when the king was either unsuccessful in getting his own nominee provided, or apparently did not become involved in the appointment to a particular bishopric. An example of the first of these is found, for example, in the diocese of the Isles in 1529.² James V named James Stewart, abbot of Dryburgh and a member of the Lennox family, for the benefice on 1 November 1529, asking that he be allowed to retain Dryburgh and also obtain the monastery of Iona *in commendam*. The existing holder, John Campbell, had been unconsecrated for seventeen years because he had not followed up the papal signature which he

¹ Much of the source material for this chapter has been cited in D.E.R.Watt, Fasti Ecclesiae Scoticanæ Medii Aevi (St Andrews, 1969), J.Dowden, Bishops of Scotland (Glasgow, 1912). I have repeated certain references given in these works where circumstances warranted but, in general, references to original sources have only been made where the source has not already been cited in these works. See also, for this chapter, M.Mahoney 'The Scottish Hierarchy 1513-1625', Essays on the Scottish Reformation, ed. D.McRoberts (Glasgow, 1962), 39-84.

² Fasti, 204-5; Dowden, Bishops, 291-292.

had obtained granting him the see. John had previously resigned in favour of Farquhar Farquhardson fourteen months earlier, but the king said that this was now to be disregarded as Campbell regretted the resignation.³ However, James's request was not granted on this occasion. Farquhard, who was a monk of Iona, a university graduate and, perhaps most significantly, an illegitimate member of the Maclean family, was papally provided on 17 February 1530.⁴ In May, he was granted the temporalities of the see and of the annexed abbacy of Iona by the king.⁵ John Campbell finally resigned his right in the bishopric on 17 May 1532, being allowed to retain some of the revenues of the see.⁶ It is not certain what role, if any, Clement VII played in the rejection of James Stewart. The most likely explanation is that it was very little and that the resignation and transfer were primarily caused by a changing balance of power between families on the western seaboard. In any case, by 1532 James was apparently satisfied with the provision of Farquhard and he sought for him the right to wear episcopal vestments despite the fact that he was a regular cleric.⁷

There is one other occasion when royal schemes do not appear to have worked out as originally planned. In 1532, the relatively poor bishopric of Argyll was held by Robert Montgomery, son of the earl of Eglinton.⁸ On 16 May, James V wrote to Clement VII stating

³ James V Letters, 162-3.

⁴ Reg. Vat. 1428, f.334-35.

⁵ RSS, ii, no.685.

⁶ Bull of confirmation is dated 5 Nov. 1534 (Reg. Vat. 1741, f.212-212^v).

⁷ 20 Feb. 1532. (James V Letters, 209). Farquhard himself petitioned for the privilege on 5 December 1534 (Reg. Supp. 2158, f.93).

⁸ Fasti, 27; Dowden, Bishops, 389-90.

that Robert wished to resign the see because the revenues were inadequate and instead wished to obtain a pension from it. He therefore asked that the pope would promote David Beaton, the commendator of Arbroath, to the bishopric since he could maintain the see from the fruits of his other benefices.⁹ The origins of this unlikely transfer are unknown, although it may lie in some arrangement planned by Beaton or perhaps even James himself. In any case, nothing further came of the scheme. The records of the pontificate of Clement VII may give some indication as to whether the pope had much, if anything, to do with the abandonment of the proposal, although this again appears very unlikely in the light of our knowledge of the rest of James's reign.

These bishoprics were peripheral, poor and relatively insignificant and, even if James took some interest in appointments to them, he was possibly not overly concerned with the outcome of his intervention. He would, however, be greatly concerned with the destination of the major sees. It is surprising therefore that David Beaton's succession to the archbishopric of St. Andrews, the see held by his uncle, James Beaton, seems to have been carried out without any recorded royal nomination.¹⁰ Beaton was appointed coadjutor and successor to his uncle with the right of succession before 5 December 1537.¹¹ There appear however to be no surviving letters of nomination of any kind from James V, nor has a bull of provision been recorded in the registers of bulls. That the pope made the appointment is confirmed by a bull of 12 January 1538 addressed to Beaton which states that 'we formerly constituted you co-adjutor to

⁹ James V Letters, 223.

¹⁰ Fasti, 298; Dowden, Bishops, 41-2.

¹¹ Eubel, Hierarchia, iii, 108, where the appointment is described as being made, *in Camera Apostolica*.

James, archbishop of St. Andrews'.¹² It cannot be doubted, also, that the king was agreeable to Beaton's promotion: although his relations with James Beaton were not happy, he was certainly on cordial terms with his nephew at this time. Indeed, the poor relationship between James V and the ageing archbishop would suggest that the king might have been particularly anxious to ensure that James Beaton's successor was someone completely acceptable to him. Crown nominations to coadjutorships occur in other Scottish dioceses around this time,¹³ so the absence of any royal record of support cannot be due to his appointment being made while his uncle was still alive. In the absence of any evidence to the contrary, the positive evidence of James's good relations with David Beaton and the king's strenuous efforts subsequently to obtain first a cardinalate and then legatine powers for him, there can be no doubt that James supported his elevation.¹⁴

The quest to obtain the cardinal's hat for Beaton was successful in 1538, probably due more to the influence of the French king than that of the Scottish king,¹⁵ but the second objective was less easily fulfilled. James's strong appeals to his contacts in Rome in this cause probably had financial origins:¹⁶ a legate *a latere* in Scotland would obviate the need to refer the feuing of church lands to Rome for confirmation with the possibility, though slight, of

¹² Reg. Vat. 1694, f.4-4^v.

¹³ Coadjutors in Aberdeen in 1545, and Orkney in 1523 (Fasti, 4, 253).

¹⁴ For James's appeals to Rome, see James V Letters, 349-52, 358, 377, 384, 400, 405, 422.

¹⁵ Granted 20 December 1538 (Reg. Vat. 1694, f.63-65); M.H.B.Sanderson, Cardinal of Scotland, David Beaton, c.1494-1546, (Edinburgh, 1986), 67.

¹⁶ See above, p.25.

rejection with the resulting reduction in royal authority, and would stop money leaving Scotland for the Holy See in fees.¹⁷ A legate with power to make appointments to benefices would also hold out the possibility of a reduction in the number of disputes going to Rome and in the outflow of money associated with that activity. It was not until after James's death, however, that David Beaton finally received the legateship, in 1544.¹⁸

Even in these cases where royal wishes were thwarted, there is no evidence that papal nominees were provided instead as happened after Flodden, or indeed that this was what either Clement VII or Paul III were seeking. In one case, however, there is some indication of the extent of papal aims with regard to appointments to episcopal benefices. When William Stewart was provided to the see of Aberdeen in 1532,¹⁹ Clement VII tried to obtain a pension from the fruits of the bishopric for Sixtus Zucchellus, secretary to the Cardinal of Ancona. The pope failed, however, to achieve even this relatively modest financial objective.²⁰ There is no further evidence of either Clement or Paul III trying to obtain financial benefit in this way when bishoprics fell vacant and it therefore seems unlikely that they regarded it as a particularly effective manoeuvre.

The norm established in the fifteenth century was essentially that royal nominees were provided to vacant bishoprics. Royal power in this area was further strengthened by the Indult and the bull of 1535, and only at times of political uncertainty was it not wholly effective. James V inherited this control, and a study of the kind of

¹⁷ St. Andrews Rentale, xxvi-xxvii.

¹⁸ See above, p.28.

¹⁹ Fasti, 4; Dowden, Bishops, 139-41.

²⁰ James V Letters, 218, 220, 225, 227, 229-30.

men appointed by him gives an indication of how he used episcopal appointments as an arm of royal policy. One of his nominees was, first of all, of royal blood. On 13 September 1529, Alexander Stewart, the illegitimate son of the duke of Albany, was given papal provision to the bishopric of Moray after royal nomination.²¹ James indeed sought even higher authority for Alexander when he asked for his appointment as legate *a latere* in 1527 and as both legate and cardinal in 1530.²²

Another Stewart who was elevated to the episcopate was promoted for a different reason, namely to provide an income for a royal officer of state. William Stewart, son of Sir Thomas Stewart of Minto, who was appointed to the bishopric of Aberdeen in 1532, was serving the king as Treasurer and, in particular, had supported James's policy of clerical taxation.²³ He was nominated to the bishopric by the king on 22 March 1532²⁴ and granted the temporalities two months later.²⁵ It was a feature of James's policy that he often granted the temporalities of a benefice to his nominee before papal provision was given.²⁶

The finest of James's appointments was that of another royal servant, Robert Reid, to the see of Orkney, for whom provision was sought on 5 April 1541.²⁷ Apart from his diplomatic service on

²¹ Fasti, 217; Dowden, Bishops, 169-71.

²² James V Letters, 138-9, 164.

²³ M.Mahoney, 'The Scottish Hierarchy', 1513-1565', 50.

²⁴ James V Letters, 217.

²⁵ RSS, iii, no.1281.

²⁶ For a discussion of this, see below, p.41.

²⁷ James V Letters, 423; see also Fasti, 254, and Dowden, Bishops, 265-7.

behalf of the crown,²⁸ he was a graduate of St. Andrews, a Cistercian, abbot of Kinloss and clearly a dedicated churchman. As bishop, he was responsible for establishing a new constitution for the cathedral chapter in 1544 which, although inadequate and not effective until after the Reformation, was at least indicative of his zeal.²⁹ Reid was granted the temporalities and the gift of benefices in the diocese on 14 April 1541³⁰ and was finally provided two months later. However, a pension of 800 merks was reserved from the episcopal fruits for John Stewart, one of the king's illegitimate sons.³¹

Royal officials, amongst whom we should also include David Beaton, were one source of episcopal personnel, as they had often been in the past. Another long-standing source was the sons of noble families, and James nominated two of these to vacant bishoprics. Robert Stewart, son of John, earl of Lennox, was given crown nomination to the bishopric of Caithness on 8 September 1541³² and duly provided by Paul III on 27 January 1542.³³ Stewart was under age at the time and does not appear ever to have been received into the priesthood. As with Reid's appointment to Orkney, a pension of 500 merks was reserved on the fruits of the bishopric to James Stewart, a natural son of James V's own natural son, the earl of Moray.³⁴ The nomination of William Cunningham, youngest son

²⁸ For which, see James V Letters, 195, 271-2, 298, 303-5.

²⁹ Fasti, 255; G.Donaldson, The Scottish Reformation (Cambridge, 1960), 34.

³⁰ RSS, iii, no.3974.

³¹ 20 July 1541 (Reg. Lat. 1730, f.262-6; PRO 31/10/14, f.109-110).

³² Fasti, 61; Dowden, Bishops, 249-51; James V Letters, 432-3.

³³ Reg. Vat. 1695, f.154-162^v.

³⁴ Reg. Vat. 1695, f.222-229^v; PRO 31/10-14/111-2.

of the earl of Glencairn, to the bishopric of Argyll in 1539 also comes into this category.³⁵ James sought his provision on 1 February 1539³⁶ and he was duly provided by Paul III early in May.³⁷

The pension granted from the fruits of the bishopric of Orkney to John Stewart and that to James Stewart from the bishopric of Caithness gives an indication of the thinking behind several of these promotions. The financial needs of the crown were at the root of James's episcopal policy to a large degree. The financial situation of the crown was extremely precarious in the 1530s. This problem was not new, with antecedents stretching back into the fifteenth century. On the revenue side, the income from feudal services was declining, and that from other traditional sources, such as customs, was rising only slowly. The currency too was decreasing in value as a result of debasement of the coinage. Public revenue then was relatively inflexible. In terms of expenditure, the cost of royal administration was rising as new offices were established. The costs of maintaining the armed forces also rose substantially: James IV's reign was particularly notable in this regard. James V himself sought to maintain a lavish court and his expenditure, for example, on royal palaces was prodigal: it has been estimated as equalling the expenditure of his four predecessors put together. Rising royal expenditure required new sources of revenue.³⁸ James's policy towards appointments to bishoprics was part of his response to this financial situation: the use of such benefices to provide salaries for royal servants such as William Stewart was one element in this. The

³⁵ Fasti, 27; Dowden, Bishops, 390.

³⁶ James V Letters, 364.

³⁷ 7 May 1539 (Reg. Lat. 1691, 251^V-257^V; PRO 31/10-14/87).

³⁸ 'Clerical taxation', 130-133; A.A.M.Duncan, Scotland from the earliest times to 1603, 3rd ed., (Oxford, 1977), 308.

single most significant feature of his policy, however, was the nomination of heads of rich religious houses to bishoprics in order to leave these abbacies vacant for his illegitimate sons, thus bringing the revenues of these abbacies effectively into the royal exchequer, together with the accompanying opportunities for patronage and perhaps for influence on the process of feuing.

One example of this may be seen in the promotion of Patrick Hepburn to the see of Moray in 1538.³⁹ In this case, James's objective was to obtain the benefice which Patrick held, namely, the priory of St. Andrews, for James, one of the king's natural sons. Once again, Patrick was granted the temporalities soon after his nomination on 1 March, anticipating papal provision.⁴⁰ He was provided to the bishopric by Paul III on 14 June⁴¹ and then re-admitted to the temporalities as bishop later in the year.⁴²

The provision of Robert Cairncross to the bishopric of Ross in the following year follows a similar pattern.⁴³ In this case, William Cairncross, presumably a relative, was given the temporalities of the see before the crown nominated Robert on 15 December 1538,⁴⁴ while allowing him to have a pension of 500 merks Scots from the teinds of two parish churches belonging to the abbey of Holyrood. The nomination was made because James V wanted the abbacy of Holyrood,

³⁹ Fasti, 217; Dowden, Bishops, 171-2; see also, A.L.Murray, 'The revenues of the Bishopric of Moray in 1538', IR, xix (1968), 40-56.

⁴⁰ Nomination (James V Letters, 342); Temporalities granted 28 March (RSS, ii, no.2493).

⁴¹ PRO 31/10/14. f.85.

⁴² 24 November (RSS, ii, no.2772).

⁴³ Fasti, 270; Dowden, Bishops, 225-226.

⁴⁴ Temporalities granted to William Cairncross, 3 Oct. 1538 (RSS, ii, no.2736); nomination of Robert (James V Letters, 356).

held by Robert Cairncross, for his own natural son, Robert. Cairncross had entered into an indenture with James one month earlier that he would resign the abbacy in return for the bishopric.⁴⁵ He was then provided to the see on 14 April 1539.⁴⁶

A third example of this practice was the promotion of Andrew Dury to the see of Galloway from the abbacy of Melrose in 1541.⁴⁷ The abbacy, on this occasion, was sought for James Stewart, the elder of the king's two illegitimate sons of that name. Andrew was granted the temporalities of the bishopric on 25 May,⁴⁸ nominated to the see by the king just over a week later⁴⁹ and provided by the pope on 22 August.⁵⁰ Dury sought and obtained a pension of 1000 merks Scots from the fruits of Melrose, but there can be little doubt that the main beneficiary was the royal treasury.⁵¹ Four years later, Mary of Guise wrote to Paul III, claiming that Andrew was causing trouble by pressing James for his pension from Melrose, which had suffered greatly in the wars.⁵² This suggests that Andrew, at least in one year, was having difficulty in obtaining his pension. It appears from both this example and the promotion of Cairncross to the bishopric of Ross that James V was ready to promise pensions in order to encourage the heads of these religious

⁴⁵ Dowden, Bishops, 225, n.3.

⁴⁶ Reg. Lat. 1698, f.146-9; PRO 31/10/14, f.86. Temporalities granted as bishop, 23 June 1539 (RSS, ii, no.3058).

⁴⁷ Fasti, 132; Dowden, Bishops, 373-4.

⁴⁸ RSS, ii, no.4028.

⁴⁹ 3 July 1541 (James V Letters, 425-6).

⁵⁰ Reg. Lat. 1730, f.269-272; PRO 31/10-14/110.

⁵¹ Pension and usufruct of the grange of Mauchline was granted to Andrew on 22 August 1541 (Reg. Vat. 1644, f.46-48).

⁵² SRO, Elphinstone MS (SP 1/2), f.5, no.106.

houses to move to bishoprics. In this case, the new bishop found it very difficult to force the crown to pay the promised money: it would perhaps not be surprising if Robert Cairncross had similar difficulties.

This roundabout method of gaining financial support for the crown from episcopal revenues may appear strange. A more direct method would have been to nominate his sons for bishoprics. There were, however, arguments against this procedure. Certain episcopal duties could not be easily executed by children so young, and it was easier to avoid the normal duties of an abbot. In addition, it may be that there was a greater financial benefit to the crown in obtaining the abbacies. The real financial value of benefices at this date is a difficult question to determine: for example, values of abbacies varied as feus and tacks were made. Nevertheless, the amounts promised in common services in the cases of Whithorn and Melrose, for example, suggest that the abbey was considerably richer than the bishopric.⁵³ Though the valuations as reflected in the thirds of benefices assessed between 1561 and 1572 are not a sound basis for precise calculations, in relative terms, they do have some value. These suggest a similar conclusion.⁵⁴ It is also the case that these monasteries were nearer Edinburgh and revenues would probably be easier to collect than from regions such as Moray and Ross.

The foregoing examination raises other questions. The 1487 Indult and the 1535 bulls had given the crown initially 8 and subsequently 12 months in which to make its nomination for provision to the bishoprics. One of the potential advantages for the crown of

⁵³ Whithorn, 3 April 1542, 150 florins (PRO 31/9-33/119-120); Melrose, 3 June 1542, 1980 florins (PRO 31/9-33/120-121).

⁵⁴ For Whithorn, see Thirds of Benefices, 21; Melrose, *ibid.*, 25; Ross, *ibid.*, 2; Holyrood, *ibid.*, 26; Moray, *ibid.*, 4; St. Andrews priory, *ibid.*, 12.

this arrangement was financial: the crown could use the temporalities of the bishopric for that period,⁵⁵ and could, by the same token, delay the payment of taxes to the curia. In practice, the evidence suggests that, on the whole, James V did not delay nomination to any great degree. William Stewart was given nomination only 12 days after his predecessor died; Patrick Hepburn was nominated to Moray just over 2 months after Alexander Stewart's death, and Andrew Dury similarly received royal nomination to Galloway between 1 and 3 months of the death of Henry Wemyss.⁵⁶ In a few cases, the length of the vacancy may well have been longer: the bishopric of Argyll, for example, was left unfilled in 1538 and 1539 for at least 5 months.⁵⁷ This appears, however, to be the exception, rather than the rule.

James V also did not keep the temporalities directly for his own use. As is shown above, the policy adopted was generally to grant the temporalities of vacant bishoprics relatively quickly to the royal nominee. The temporalities of Galloway were even granted before crown nomination.⁵⁸ Some explanations can be suggested for this practice. In the first place, it has been shown that Patrick Hepburn, for example, did not benefit much financially from being granted the temporalities of the bishopric of Moray during the vacancy there either from the bishopric or from the priory of St. Andrews which he held at the time. The grant of the temporalities of both Moray and the abbacy of Scone stated that he was to deliver

⁵⁵ 'to levy the temporalities for one whole year after vacancy and no longer, and to use them at his discretion', James V Letters, 285.

⁵⁶ Fasti, 4, 217, 132.

⁵⁷ Fasti, 27.

⁵⁸ See above, p.37.

'certane money and vittalis out of the abbay of Sanctandrois, als mony as he gettis of the saidis bischoprik and abbacy'. Accounts dating from 1538 to 1540 indicate that the crown rather than Hepburn took payment for the debts owed to his predecessor as bishop of Moray, Alexander Stewart. In a series of moves, the auditors of accounts also effectively removed the bulk of the temporal revenues of the bishopric via payments of various kinds to the royal Treasurer.⁵⁹ It seems likely that the crown was able to benefit similarly during other episcopal vacancies. In order to obtain the temporalities too, some nominees had to pay a lump sum to the crown for admission to them as Alexander Stewart had to do on an earlier occasion when granted the temporalities of Moray in 1529.⁶⁰ It could be argued therefore that, at least in some cases, it was not necessary to delay a nomination in order to secure revenue from the temporalities, because the holder of these revenues could provide finance to the royal treasury indirectly. Finally, if the aim was to maximise revenue, the temporalities were of less interest than the spiritualities which were worth much more. Although these were not directly available to the crown, they could still provide an indirect source of revenue in the form of pensions.⁶¹ As has been shown above, Robert Reid's provision was accompanied, at royal request, by the reservation of pensions on the fruits of the benefice, for the king's natural son, John Stewart, and for James Thornton.⁶² Similarly, Robert Stewart's provision to the bishopric of Caithness in 1542, was linked with a pension for James Stewart, another natural

⁵⁹ A.L.Murray, 'The revenues of the Bishopric of Moray', 42-22.

⁶⁰ A.L.Murray, 'The revenues of the Bishopric of Moray', 42.

⁶¹ I.B.Cowan, 'Patronage, provision and reservation, pre-Reformation appointments to Scottish benefices', 76.

⁶² See above, p.35.

son, as well as pensions for two others.⁶³ By these means, therefore, James V improved his own financial position at the expense of episcopal revenues.

A significant change of circumstances was produced by James's death when his daughter was only one week old. The government of Scotland passed to the earl of Arran as governor, but his powers were in many respects circumscribed. In the background were not only Mary of Guise, the Queen Dowager, but also other factions: the Stewart earls of Lennox, next in succession to the throne, the Angus grouping and other powerful families. Arran, however, attempted to pursue policies on episcopal appointments which appeared not dissimilar to those employed by James V in terms of the financial exploitation of the church. This was probably inevitable: the financial problems of the government had not changed. What had, however, altered was the balance among noble families and also between these families and the crown. The governor's attempt to depose Robert Stewart from the bishopric of Caithness in 1544 illustrates this point.⁶⁴ In that year, Stewart and his brother, Matthew fourth earl of Lennox, were supporting the English cause at the time of Hereford's 'Rough Wooing'. A plan was therefore devised by which Stewart would be replaced as bishop by Alexander Gordon, brother of the earl of Huntly. This was part of an arrangement by which Huntly would support Arran's scheme for the marriage of a Hamilton to the infant Queen Mary,⁶⁵ and it is clear that the plan

⁶³ See above, p.36.

⁶⁴ Fasti, 61; Dowden, Bishops, 249-50.

⁶⁵ M.Mahoney, 'The Scottish Hierarchy, 1513-1565', 52.

dates from at least mid-1543. On 25 May 1544, Stewart complained to Mary of Guise that Gordon was harassing him and delaying the passage of his letters of authority under the signet.⁶⁶ On 12 December, however, Gordon was given crown nomination to the bishopric,⁶⁷ and additional letters were sent seeking his promotion on four occasions in the following year and a half.⁶⁸ The pope had meanwhile handed over the examination of the charges against Stewart to Cardinal Beaton in his legatine role early in 1545⁶⁹ and, on 6 August, Stewart was granted a remission of his conduct by the crown and permitted to return to Scotland to answer in the ecclesiastical courts.⁷⁰ The dispute in fact continued till 1548: Gordon appears to have been wishing to come to an agreement with Stewart in April of that year,⁷¹ yet slightly later in the year, the benefices was obviously still in dispute.⁷² By this time, however, the Dowager had very much the upper hand and any prospect of a marriage between a Hamilton and the Queen was gone: the original rationale for the appointment of Gordon had therefore disappeared. Gordon was never papally provided and, having been reported on 13 April 1548 as having resigned in favour of Stewart,⁷³ he had actually

⁶⁶ Mary of Lorraine Correspondence, 12-13, no.X.

⁶⁷ ERS, ii, 222-3.

⁶⁸ 8 May, 30 December 1545, one undated and 13 April 1546 (SRO, Elphinstone MS (SP 1/2), f.48-48^v no.97; f.55^v no.114; f.62-63, no.126-7; f.64^v-65, no.131).

⁶⁹ Prior to 17 March (SRO, Elphinstone MS (SP 1/2), f.63-64^v no.128, 129).

⁷⁰ Dowden, Bishops, 250.

⁷¹ 25 April 1548 (Mary of Lorraine Correspondence, 228-30, no.CLXII).

⁷² c.May-July 1548 (Mary of Lorraine Correspondence, 239-40, no.CLXXI).

⁷³ Mary of Lorraine Correspondence, 229 no.4.

done so at Rome by 10 August. In return for his resignation, he received a pension of 500 merks Scots per annum till he was recompensed by Stewart with a benefice to that value.⁷⁴ Although Gordon was one of Mary of Guise's advisers, she does not appear to have given him active support in this case. Nor did this link help him when he was eventually provided to Glasgow in 1550 for he fell foul of the laws of barratry and this promotion also fell through.⁷⁵

The struggle over Caithness illustrates a very necessary element in Arran's policy towards appointments to benefices, the need to conciliate other powerful families. In practice, the authority of the governor was less than that of the crown itself, and in this case it was the Gordon family whose support he sought. This family also figured in the succession to another northern diocese when the vacancy in the see of Aberdeen in 1545 was filled by William Gordon.⁷⁶ The temporalities of the bishopric were first gifted to John Hamilton, Arran's son, on 22 April 1545,⁷⁷ although a letter nominally from Mary, Queen of Scots of 28 April states that 'about a month ago, she was induced to ask the pope to make William Gordon co-adjutor to William Stewart.'⁷⁸ The letter, signed by Arran and presumably representing his wishes, goes on to ask the pope to wait for a royal nomination. Whether the earlier gift of the temporalities to Hamilton and the request for delay reflects a possible intention to retain the benefices in the Hamilton family is not clear but, in any

⁷⁴ Contract registered 10 August 1548 (ADCP, 576). Gordon however never obtained a benefice from Stewart.

⁷⁵ Fasti, 150; see also p.48.

⁷⁶ Fasti, 4; Dowden, Bishops, 141-3.

⁷⁷ RSS, iii, no.1137.

⁷⁸ ERS, ii, 250-1. This probably refers to a letter to this effect, dated 21 Jan. 1545 (Elphinstone MS (SP 1/2, f.45-45^v, no.88).

case, the temporalities were then granted to Gordon in August 1545⁷⁹ and he was eventually provided to the see on 17 May, according to the bull, at the instigation of the earl of Arran.⁸⁰ The temporalities were granted a few weeks later to George, fourth earl of Huntly, Gordon's nephew.⁸¹ The details of this appointment also indicate that Arran was following James V's policy of granting pensions from these benefices to his own family. The grant of the temporalities, albeit temporarily, to his son before Gordon's provision had presumably benefited the treasury briefly. A more permanent income was obtained when Gordon had to pay, as the price for his successful provision, annual pensions of 1000 merks Scots to John Hamilton and 500 merks Scots to David Paniter, the royal secretary.⁸²

The granting of a bishopric was also, as in James's reign, one means of giving financial support and reward to a government servant. Paniter was himself promoted to the bishopric of Ross in 1545 after the death of Robert Cairncross in November.⁸³ He was clearly one of Arran's supporters and represented his interests in diplomatic missions both before and after his promotion.⁸⁴ Paniter was granted the temporalities of the bishopric on 23 December, when it was said that he had already received crown presentation.⁸⁵

⁷⁹ 20 August (RSS, iii, no.1297).

⁸⁰ Reg. Lat. 1758, f.160-161^v; PRO 31/10-14/118-9. He promised to pay the common services on 16 September 1546 (PRO 31/9-33/128).

⁸¹ 8 June 1546 (RSS, iii, no.1708).

⁸² PRO 31/10-14/118-9.

⁸³ Fasti, 270; Dowden, Bishops, 226-8.

⁸⁴ Mary of Lorraine Correspondence, 166, 171 no.CXXIII, 174 no.CXXVI.

⁸⁵ RSS, iii, no.1446. No record of such a presentation has been traced. There is, however, a royal letter, probably of 27 April 1546, asking for expedition of Paniter's provision (Elphinstone MS (SP 1/2, f.54, No.111).

There was, however, some delay in securing his appointment, for in April of the following year, a royal letter to Paul III said that Patrick Liddell had been sent to accelerate Paniter's promotion, and hinted that James Salmond, one of the Scottish procurators at Rome, was not to be trusted in this particular matter.⁸⁶ Paniter did not in fact obtain papal provision until 28 November 1547.⁸⁷

Despite such nominations, it is clear that the main strand in Arran's policy was to advance the interests of his own family. This was little different in essence from that of James V. The governor's policy is best seen in the promotion of his half-brother, John, bishop of Dunkeld, to the archbishopric of St. Andrews on Beaton's death in 1546.⁸⁸ John Hamilton, a major influence in determining Arran's policies, was also responsible for many of the attempted reforms in the Scottish church in the next few years, and proved on the whole a worthy primate. The speed with which Arran moved after the Cardinal's assassination on 29 May was remarkable and indicates the importance to Arran of pursuing family interest: Hamilton was granted the temporalities of the see two days later.⁸⁹ It is only fair to add that there is strong evidence of support for his promotion from other churchmen and Scottish nobles, who may have believed that he might exert some influence on his brother,⁹⁰ although it is difficult to disentangle genuine support from any that was engineered by the governor. He was papally provided on 28 November 1547, with

⁸⁶ SRO, Elphinstone MS (SP 1/2), f.54-55, nos.111-2.

⁸⁷ Reg. Lat. 1698, f.167-170^v; PRO 31/10-14/122-3.

⁸⁸ Fasti, 298-9; Dowden, Bishops, 43-44.

⁸⁹ 31 May (RSS, iii, no.1696).

⁹⁰ T.Winning. 'Church Councils in sixteenth-century Scotland' in Essays in the Scottish Reformation, ed. D.McRoberts (Glasgow, 1962).

retention of the abbacy of Paisley and of various other benefices which he held.⁹¹

It was this desire to obtain benefices for members of his own family which produced two of the major conflicts of these decades with regard to appointments to bishoprics. These clearly illustrate the limits of Arran's power. It is significant that these disputes were not essentially between the crown and the papacy, although the popes did exercise some influence, but more significantly reflected the struggle for control of government within Scotland. One of these was over the vacancy in the archbishopric of Glasgow caused by the death of Gavin Dunbar in 1547.⁹² Arran first nominated James Hamilton, another natural brother, asking also for pensions for two illegitimate children, David and Claud, on 31 July 1547.⁹³ The prospect of the two archiepiscopal sees in Scotland both being held by brothers of the governor was less than attractive to Paul III, who rejected the nomination ostensibly on grounds of illegitimacy.⁹⁴ Since this had previously weighed little on the papal conscience with regard to certain appointments to important religious houses, such a claim must be regarded with some scepticism; concern at the growing concentration of major benefices in Hamilton hands was a more probable cause. Mary of Guise also looked on the proposal with considerable alarm for the same reason. Arran himself may not have been very hopeful of the success of his nomination since he does not appear to have fought its rejection. Instead, he nominated Donald

⁹¹ PRO 31/10-14/122.

⁹² Fasti, 149-50; Dowden, Bishops, 345-50; R.K.Hannay, 'Some Papal bulls among the Hamilton Papers'. SHR, xxii (1924-25), 32-35; Mary of Lorraine Correspondence, 323-4, 329-337, 349, 352).

⁹³ Theiner, Monumenta, no.1074.

⁹⁴ R.K.Hannay, 'Some Papal bulls among the Hamilton Papers', 34.

Campbell, abbot of Coupar Angus, for the see before August 1548. Since Campbell was the uncle of Archibald, earl of Argyll, this may have been an attempt to gain the support of the Campbells, one of the major families whose goodwill would be valuable. In any case, this also fell through on the death of the papal nuncio in Scotland, Peter, Bishop of Verona.⁹⁵ At the same time, Alexander Gordon was also seeking the archbishopric, on the grounds that the crown had not nominated a suitable person within the period of twelve months stipulated by the Indult. His claim may have well had the support of Mary of Guise, though this is not certain; she was certainly under a pledge to secure a benefice of the appropriate value in Scotland or France for him in compensation for his failure to obtain the bishopric of Caithness and, in the meantime, was paying him a pension.⁹⁶ He was probably also exploiting the opposition in Scotland to the original Hamilton nomination for his own ends. Gordon was in fact provided to the archbishopric on 5 March 1550,⁹⁷ but political circumstances dictated that his bid for the benefice was to prove abortive. The end of the fighting with England in April 1550 made it advantageous for the Dowager to drop her opposition to Arran's government, and Gordon suffered the loss of his see as a result of the arrangement made at the time. He was not at this stage a particularly suitable protégé for Mary of Guise. Arran was hostile to him and he was under a charge of barratry; on the other hand, the Huntly interest was significant enough to make it less than easy to force Gordon to give up the archbishopric.⁹⁸ He was eventually forced to resign in

⁹⁵ R.K.Hannay, 'Some Papal bulls among the Hamilton Papers', 34.

⁹⁶ Mary of Lorraine Correspondence, 229, n.4, no.CLXII.

⁹⁷ Dowden, Bishops, 349; Mary of Lorraine Correspondence, 323-4, no.CCXXVII.

⁹⁸ Letter of Huntly to the Dowager, 13 May 1551 (Mary of Lorraine Correspondence, 348-9, no.CCXXXVII); Letter of Archbishop

1551 in favour of James Beaton, commendator of Arbroath and nephew of the former cardinal, but received the commendatorship of Inchaffray and the title of Archbishop of Athens, in compensation.⁹⁹ It is true that the papacy was able to refuse both Arran's original nomination of his brother and that of Campbell and successfully prevent an appointment which served the governor's interests. Yet it is clear that the real opposition to the governor came from within Scotland, led by Mary of Guise, and the final result was essentially a compromise between the two factions, resulting in an appointment which was probably less politically significant than either Hamilton's or Gordon's would have been.

The other major dispute, which proved more long drawn-out, began in 1543 over the bishopric of Dunkeld.¹⁰⁰ The two competitors for this see were Robert Crichton, nephew of George Crichton, the previous bishop, and John Hamilton, Arran's half-brother, who was later promoted to St. Andrews. Crichton was apparently seeking the succession to his aged uncle prior to George Crichton's death. In a royal letter of 13 January 1543, the pope was asked to accede to the bishop's wish to resign in favour of his nephew while retaining the fruits.¹⁰¹ This request was successful, for Robert Crichton received papal provision as coadjutor in a bull of 17 March, where it was said that the supplication was made on the crown's behalf by Mary of Guise.¹⁰² It is clear, however, that Arran had other plans, for he

Hamilton to the Dowager, 14 June 1551 (*ibid*, 352-4, no.CCXXXIX).

⁹⁹ R.K.Hannay, 'Papal Bulls', 35; Mary of Lorraine Correspondence, 330-3.

¹⁰⁰ Fasti, 99-100; Dowden, Bishops, 88-92.

¹⁰¹ SRO, Elphinstone MS (SP 1/2), f.31, no.52.

¹⁰² Fasti, 100, where it is suggested that the date of Crichton's provision must be 17 March 1543 not 1544. The bull of provision (Reg. Vat. 1696, f.196^v-198^v; see also PRO 31/10-

protested that a resignation and provision had been made without his consent,¹⁰³ and later made the point that Crichton's provision was in breach of the indult in that the pope had not waited for his nomination.¹⁰⁴ Arran did then nominate John Hamilton on 24 January 1544, granting his brother the temporalities of the see a few days earlier. In the letter of nomination, he also sought the reservation of a pension of £1000 Scots for Alexander Campbell, brother of the earl of Argyll, a concession presumably intended to help retain the support of this powerful highland family.¹⁰⁵ In response to Arran's repeated letters recommending his brother, Paul III finally provided Hamilton to the benefice in December, with retention of the abbacy of Paisley, and reservation of the pension to Campbell,¹⁰⁶ although the bulls were not actually released for two more years. The litigation nevertheless continued and, although Hamilton was consecrated, Arran soon found a bigger prize for his brother in the archbishopric of St. Andrews, to which he was translated on Beaton's death in 1546.¹⁰⁷ Arran then introduced a new candidate, Donald Campbell, abbot of

14/114) is dated 1544, but this must be erroneous in the light of the internal evidence of the bull where George Crichton is recorded as being alive, whereas he was certainly dead by 17 March 1544 and the external evidence of the subsequent royal letters of 1543 which imply Robert Crichton's provision.

¹⁰³ 14 May 1543 (LP Henry VIII, xviii, pt.1, no.542-3).

¹⁰⁴ Undated letter c. May/June 1543 (LP Henry VIII, xviii pt.1, no.801).

¹⁰⁵ Grant of temporalities, 20 January 1544 (RSS, iii, no.601); letter of nomination (LP Henry VIII, xix pt.1, no.56,57).

¹⁰⁶ Letters from Arran and Mary, Queen of Scots (signed by the Governor) to the pope, 12 October and 5 December (LP Henry VIII, xix pt.2, no.428; LP Henry VIII, xix pt.2 no.710,711). Provision on 17 December (Reg. Lat. 1758, f.153-158^v; PRO 31/10-14/115). Pension to Campbell (Reg. Vat. 1664, f.391-392^v). He promised to pay the common services on 6 March 1546 (PRO 31/9-33/125-6).

¹⁰⁷ See above, p.46.

Coupar Angus, uncle of the earl of Argyll, and for whom he also later sought the see of Glasgow. Campbell was granted the temporalities of the bishopric on 6 November 1547.¹⁰⁸ Crichton, however, continued to fight; in December 1547, he based his claim to the bishopric on having acted as coadjutor to his uncle for some time, stating that he had been appointed with possession guaranteed and that 'he will not resign in favour of anyone'.¹⁰⁹ The dispute continued for several more years, with the governor exerting continued pressure in various forms for Campbell's promotion, and the new pope, Julius III, showing himself unwilling to accede to these requests.¹¹⁰ In fact, the litigation only ended when Arran was replaced as governor by Mary of Guise in 1554, at which point Crichton obtained possession, although he was never consecrated.¹¹¹

Arran was eventually able to secure the appointment of his half-brother to Dunkeld for a period, but only after a considerable delay arising from Crichton's nomination by Mary of Guise and the subsequent defence of his claim at the curia. In both this case and that of Glasgow, Arran's effectiveness in securing the benefices for his nominees was affected by the relative insecurity of his own position, and the existence of another source of authority in Mary of

¹⁰⁸ RSS, iii, no.2531, Fasti, 100, states that they were granted on 23 June 1549. In fact, the grant was made in 1547 with the proviso that it would be effective from Hamilton's translation to St. Andrews. The second grant in 1549 was made at the time of the translation.

¹⁰⁹ 22 Dec. (PRO 31/9-33/221-5).

¹¹⁰ Dowden, Bishops, 91-2; CSP Scot, i. 103, no.209; RSS, iv, no.2142-3. A memorial from the Scottish government of 22 April 1550 implies that Mary of Guise did not now support Robert Crichton and that he was litigating on his own (Keith, Church and State, i, 440-8). The final outcome of the litigation, so chronologically close to the replacement of Arran as governor by Mary of Guise, does not support this inference.

¹¹¹ Fasti, 100.

Guise, who sought to change government policy in her own interest. The papacy was able to exploit this disunity to at least delay appointments to the bishoprics and release of the bulls in order to try to influence the crown's policies in respect of such appointments. In this situation, Paul III and his successor might have been able to obtain some further advantage from this weakness. The dispute over Dunkeld did offer such an opening for the papacy. In a letter from Arran to the pope of 12 October 1544, it was stated that Robert Wauchope was trying to obtain a pension from the fruits of the bishopric. Wauchope was a distinguished Scottish theologian and teacher at the University of Paris and, in addition, a papal familiar. He was thus a likely recipient of papal favours. It would appear that Wauchope or Paul III, or possibly both, were taking advantage of the confusion over Dunkeld to try to obtain some financial support for him.¹¹² In fact, Wauchope did successfully obtain a pension of 500 ducats *auri de camera* from the bishopric, in contrast with the failure of Clement VII's attempt in 1532 to obtain a pension from the fruits of the bishopric of Aberdeen.¹¹³ This may represent a further, if minor, indication of Arran's relative weakness.

With regard to the issue of delaying presentation of new candidates for bishoprics, the earl of Arran in fact acted more quickly than James V. It is probable that this reflects what he rightly perceived as the weakness of his position relative to Mary of Guise and powerful families, such as the Gordons. In contrast to the practice during James V's reign, the governor's candidates usually first received the temporalities prior to nomination. Most rapid of all was the governor's grant of the temporalities of St. Andrews to John

¹¹² LP Henry VIII, xix, pt.2, no.428. For Wauchope's career, see the dispute over the abbacy of Dryburgh (below, p.57ff).

¹¹³ 17 December 1544 (PRO 31/10-14/115).

Hamilton only 2 days after Beaton's murder: in this case, indeed, no formal crown nomination has been traced. Hamilton was also granted the temporalities of Dunkeld within 20 days of George Crichton's death and given crown nomination 4 days later. Arran's son, also John Hamilton, was granted the temporalities of Aberdeen 12 days after the death of William Stewart, although this proved abortive. The delay between Robert Cairncross's death and the grant of the temporalities of Ross to David Paniter was just over 3 weeks and it was claimed then that he had already obtained crown nomination. In the one case in which nomination is recorded prior to the grant of temporalities, namely James Hamilton's nomination to the archbishopric of Glasgow, the delay was no more than 4 months.¹¹⁴ Like James V, the earl of Arran was clearly more concerned with securing the appointment of his nominees than in the theoretical financial advantages granted by the papal Indult and bulls.

The payment of pensions also played a slightly different role during Arran's rule as governor. As James V had done, Arran secured some financial benefit for his family, as has been seen, from the pension of 1000 merks paid to his son, John Hamilton, from the fruits of the bishopric of Aberdeen, from which also came a pension to David Paniter, Arran's secretary.¹¹⁵ Some, however, were granted for other reasons. The pension of 500 merks to Alexander Gordon from the bishopric of Caithness, was a short-term measure to buy off the Gordon interest in the bishopric with a view to later substituting possession of another benefice. Alexander Campbell's pension of £1000 Scots on the fruits of the bishopric of Dunkeld represented a recognition of the need to retain Campbell goodwill.¹¹⁶ These

¹¹⁴ Fasti, 298,100,4,270,149.

¹¹⁵ See above, p.45.

¹¹⁶ See above, p.44,50.

provide two examples of another method adopted by Arran to maintain support for his rule from major noble families.

Albany had re-established effective control over appointments, and this position was acknowledged in the bulls of 1535. The Indult and its 1535 extension were generally observed throughout the 1530s and 1540s, and both the crown and the papacy recognized each other's rights. Nominations, and thus effective control of appointments, were firmly in the hands of the crown, and were usually made promptly, both because it was safer to secure the succession, and because it probably produced greater financial benefit than by leaving the see vacant and taking the temporalities. Where the temporalities were granted to a nominee prior to provision, various devices were adopted to divert some of the revenue to the royal treasury.¹¹⁷ The use of this control by James V and the earl of Arran, whilst not dissimilar, did differ in a number of ways. James aimed to use the church's wealth to support the royal treasury primarily by moving the heads of rich religious houses to bishoprics to free these abbacies for his illegitimate children. Arran was concerned not only with securing finance for government but more directly with advancing the interests of his family both politically and financially by trying to secure the appointment of various relatives to the bishoprics themselves. Although both nominated members of noble families to bishoprics, in Arran's case there was clearly a much greater need to conciliate potential rivals than existed during James's reign. Both, however, used bishoprics to reward and support royal servants in much the same way.

At the same time, the papal right of provision, with its attendant financial benefits, was fully recognized by the crown. In

¹¹⁷ See above, p.41.

most cases, provision of royal nominees was made without question. In a few, however, the papacy intervened more positively. The attempts to obtain pensions from episcopal fruits for Sixtus Zucchellus and Wauchope provide examples of this, though only the second of these was successful. More significant, however, were the delays which the popes were able to impose on the appointments to Dunkeld and Glasgow during the earl of Arran's rule, in that they provide another example of the papacy intervening at times of political disunity as had happened on occasions in the previous century. Neither Paul III nor Julius III, however, was trying to impose his own nominee, as had happened on earlier occasions. The rival claimants reflected instead the different parties in a domestic struggle for power within Scotland, and although the popes were effectively taking sides in this struggle, their influence was limited to delaying first of all the provisions and then the release of the bulls. The change in the level of papal activity between James V's reign and the governorship of Arran was not due to any shift in the relationship of crown and papacy. It simply reflected the weakness of Arran's position as governor and the opposition in Scotland to him and his policies which resulted in disunity and instability.

A fuller analysis of the working of the Indult and the 1535 bulls, relations between the crown and the papacy, and the significance of government policy on appointments to major benefices, however, also requires an examination of appointments to the religious houses.

CHAPTER 3

THE MONASTIC HOUSES

In the fifteenth century, the assertion of papal rights in some appointments to religious houses had produced considerable friction with the crown.¹ The Indult of 1487 had included any monastery whose value was over 200 gold florins of the camera, these being consistorial benefices.² The crown, however, seems to have held this to grant a right of recommendation to all elective benefices. In practice, the situation at lesser religious houses remained uncertain, complicated in the case of dependent priories by their relationship to their mother house.³ It would appear from an examination of James V's statements about appointments to religious houses that such distinctions between consistorial and non-consistorial houses had ceased to have any meaning as far as the crown was concerned: the king might regard the nomination to a relatively minor house as his affair if he chose to do so. In a letter to the Father-General of the Trinitarian order in August 1540, for example, James V described the ministry of Failford as due to crown presentation 'by reason of foundation and of prelacy',⁴ It is however certain that the benefice was one of those which paid annates, and thus fell under the 200 florin limit which would bring it within the terms of the Indult.⁵ James's instructions to Albany, written in April 1530, stated that

¹ R.K.Hannay, The Scottish Crown and the Papacy, 7-9; see also above, p. 18.

² Hannay, *ibid.*, 10; ADCP, Introduction, xliv.

³ Cowan, 'Patronage, provision and reservation', 80-1.

⁴ 20 August (James V Letters, 412).

⁵ A.I.Cameron, The Apostolic Camera and Scottish benefices, (London, 1934), 139,220,250,290.

election or nominations to monastic houses, without any qualification as to value, 'should be at the royal recommendation', and went out of his way to justify the practice.⁶ The impression is given that James felt that he should take every opportunity to state his interpretation of the agreement. Contemporary sources also reflect an element of disagreement with regard to the headships of dependent priories. The papacy tended to treat these as non-consistorial and therefore potential reserved benefices, while the crown was inclined to treat them like the greater monasteries. In April 1536, for example, James V described the priory of St. Mary's Isle, nominally dependent on Holyrood, as being consistorial:⁷ yet, in the cameral records, obligation was made in November 1536 not for the payment of common services payable on consistorial benefices, but for annates.⁸ In practical terms, therefore, it is more appropriate to examine the pattern of appointments to monastic houses in Scotland as a whole rather than to attempt to draw theoretical distinctions which clearly do not correspond with reality.

An examination of provisions by Paul III reveals that there is only one case of the pope attempting to resist a royal nomination during James V's reign. Perhaps surprisingly, this was made after the extension of the Indult in 1535. The occasion of the dispute was the vacancy at Dryburgh in 1539. James nominated Thomas Erskine, second son of Lord Erskine on 7 November after the death of James Stewart, the previous abbot.⁹ The following day, however, Robert Wauchope, a Scottish scholar whose career to date had largely been

⁶ 6 April (James V Letters, 174-6).

⁷ 8 April (James V Letters, 315).

⁸ 11 November (PRO 31/9-33/47); see also Cowan 'Patronage, provision and reservation', 81.

⁹ James V Letters, 380.

at the University of Paris, successfully petitioned for provision to the monastery.¹⁰ Wauchope had a distinguished career as a papal servant, but this proved an unhappy incursion into the ecclesiastical politics of his native land. In fact, his attempt to obtain the abbacy was not made on his own initiative, but was instigated by Paul III himself. He had been provided to the Archbishopric of Armagh in July of that year until the Irish primate, Cromer, who had been delated to Rome for heresy died, resigned or cleared himself. The pope hoped to obtain the help of James V in investigating the charge because of his contacts in Ireland, by providing a Scot to the archdiocese.¹¹ Since he could draw no revenues from his Irish see, Paul then provided Wauchope to the abbacy of Dryburgh, assuming royal acquiescence.¹² Apart from the diversion of revenues resulting from this appointment, a question of principle was clearly at stake for James: he protested against the provision on 22 February 1540, pointing out that the extension of the time for royal recommendation granted in 1535 had not been observed. 'Dryburgh' he said 'is exposed to English attacks and therefore requires a man not only to rule the cloister but to act outside it with resolution, liberality and judgment.'¹³ This first letter on the subject was comparatively mild. Only on 4 May did James bluntly make the point to Paul III that 'at no time was it possible, or can it in future be possible, to alter his plan, having satisfied the conditions of the indult by recommending

¹⁰ 8 November (Reg. Supp. 2354, f.212-212v: Provision (Reg. Vat. 1707, f.45-45v). For Wauchope's career, see J.Durkan, 'Robert Wauchope, Archbishop of Armagh'. *IR*, i (1950), 48-66.

¹¹ Durkan, *ibid*, 50.

¹² Provision was made on 8 Nov. 1539 (Reg. Vat. 1694, f.244-244^v; Reg. Vat. 1707, f.45-47^v).

¹³ James V Letters, p.392-3.

within due time.¹⁴ The tone of subsequent letters became more strident as James peremptorily refused delay, laying increasing emphasis on the privileges of the crown on which point he wished the pope to be clear, and on his faithfulness to the papacy.¹⁵ This approach was one which James consistently used in his dealings with both Clement VII and Paul III. It is not difficult to see the veiled threats behind the conventional courtesies of the king's letters on this matter. Eventually, on 6 May 1541, Erskine was papally provided *in commendam* to the abbacy.¹⁶ Wauchope, however, did not immediately give up. In a petition of 25 January 1544, he asked for prorogation of the provision for two years beyond the three year period after which Erskine's possession would be regarded as valid if unchallenged.¹⁷ Paul III, however, seems to have accepted James's demands, for this petition was unsuccessful and Erskine retained the monastery. Wauchope's attempt to obtain the benefice flickered into life again in 1549 when he objected to Erskine's provision on the grounds that he had made marriage vows,¹⁸ but there is no sign that this persistence paid any dividends for the abbey remained with the Erskine family, and two years later Wauchope was dead. In some ways, it is surprising that Paul made the provision of Wauchope in the first place since it breached the specific provisions of the 1535 Indult. More generally, the case can be seen as a throw-back to the disputes of the fifteenth century when the papacy made determined

¹⁴ *ibid*, p.398.

¹⁵ *ibid*, p.400,405,410-1,416.

¹⁶ Provision (Reg. Lat. 1730, f.16-21^v; PRO 31/10-14/108). On 5 June, he promised to pay the common services and the bulls were released (PRO 31/9-33/117).

¹⁷ Reg. Supp. 2524, f.188^v.

¹⁸ 14 February (Reg. Supp. 2652, f.190-190^v). Thomas had by then been succeeded by his brother, John. (See below, p.92).

efforts to appoint its own candidates against those of the king. What is unusual here is that, whereas most of the earlier disputes had arisen at moments of weakness or instability in government, this one developed at a time when James V was firmly in control of policy. What is equally significant, and less surprising, is that royal authority when tested, proved its power.

There is a second, if less determined, instance of a papal attempt to provide its own nominee against James V's wishes. When James nominated William Colville to the abbacy of Culross in 1531, he stated that he had heard that Culross had been given *in commendam* to Sixtus Zucchellus. James asked Clement VII to annul this provision, saying that 'his position will not permit him to give in even over the least of the prelacies.' James offered, although it is doubtful how seriously this offer was made, a pension to Sixtus from the next vacant prelacy.¹⁹ In any case, there is no further mention of Sixtus in relation to Culross and clearly royal authority had been vindicated.

It also seems quite possible that the papacy may have put forward its own candidate against a royal nominee when the abbacy of Inchcolm fell vacant in 1532, although there is no direct evidence to support this contention. James nominated Richard Abercrombie, a canon of the other Augustinian house of Cambuskenneth for the benefice on 17 April.²⁰ Late in August, he wrote again to Clement VII saying that he had been asked by the convent not to appoint anyone who was not of the order. He had heard, since he had nominated Richard, that Bartholomew de Ferrariis had petitioned for the monastery and he protested against this.²¹ The records of

¹⁹ 1 Aug. 1531 (James V Letters, 195-6).

²⁰ James V Letters, 219.

²¹ 23 Aug. (ibid., 227-8).

Clement's pontificate may throw greater light on this dispute: it may well be that the pope had provided Bartholomew to the abbacy. However, Richard was admitted to the temporalities of the abbey on 10 February 1533 and the attempt to thwart the king's nomination again failed.²² Abercrombie held the abbey in name until 1543 and then resigned, retaining all the revenues and fruits and the title of abbot till his death in 1549.²³

There were several other occasions when some sort of challenge was made to the royal right of nomination, although there is no indication of the extent, if any, to which the papacy was involved in these cases. James specifically claimed that the Indult was being infringed during a dispute over the priory of Whithorn in 1533. This had already been a cause of dispute after Flodden when Leo X had provided the Cardinal of Cortona in opposition to Albany's nominee, Alexander Stewart, his natural brother.²⁴ The priory was subsequently held by Gavin Dunbar and, on his promotion to Glasgow in 1524, the influence of Malcolm, Lord Fleming, obtained the priory for his natural brother, Ninian Fleming, notwithstanding an alternative candidate put forward by the convent and supported by royal letters. The original papal nominee had not entirely disappeared, for the Cardinal of Cortona while resigning in favour both of Dunbar and Fleming had apparently retained some financial interest in the priory.²⁵ Fleming's original provision had been as commendator; after several years' study in Paris, however, he

²² RSS, ii, no.1501.

²³ See below, p.87.

²⁴ Cowan, 'Patronage, provision and reservation', 80.

²⁵ G.Donaldson, 'The bishops and priors of Whithorn', TDGNHAS, 3rd ser., xxvii (1950), 146-7; Wigtownshire Chrs., 12,26,28.

assumed the habit without realizing that this necessitated a new provision. This omission provided an opening for litigation at Rome by another contender, Abraham Vaus. Responding to the challenge in a letter of July or August 1533, James V complained that Vaus was infringing the Indult which gave the crown the right to nominate for elective benefices during the eight months after vacancy.²⁶ Fleming also endeavoured to correct his earlier error later the following year by petitioning for a new provision.²⁷ The challenge to Fleming was unsuccessful and he retained possession despite Vaus's litigation; when he died in 1538, James nominated Malcolm Fleming, dean of Dunblane and presumably related to Lord Fleming, for the benefice on 2 January 1539.²⁸ A pension of 400 merks Scots was sought on the fruits of the benefice for John Erskine, son of the royal secretary, but this was later transferred to John Maxwell, son of Lord Maxwell, warden of the Marches, whose loyalty was particularly required at a time when the situation on the Anglo-Scottish border was unsettled.²⁹ This nomination was supported by a petition from Malcolm himself and he was duly provided on 21 March.³⁰ The reasons for Vaus's attempt to obtain the priory are unclear. These successful provisions, however, illustrate the effectiveness of royal power against a claimant without strong support, James's need at the

²⁶ James V Letters, 246-7.

²⁷ 4 December 1534 (Reg. Supp. 2157, f.73-73^v).

²⁸ James V Letters, p.362-3; for Malcolm Fleming, see M.Dilworth, 'The commendator system in Scotland', IR, xxxvii (1986), 60.

²⁹ James's letter of 8 Feb. 1539 specifically stated that Maxwell was 'a vigorous warden on the English marches'. (James V Letters, 365).

³⁰ Reg. Supp. 2326, f.40-40^v; Reg. Lat. 1694, f.234-235^v. The bull granting Maxwell his pension is dated 27 April (Reg. Lat. 1693, f.98-100^v). On 19 August 1541, Fleming sought and obtained provision *in perpetual commendam* (Reg. Supp. 2427, f.139-140; Reg. Lat. 1735, f.66-67).

same time to encourage border families, which were vital in the continual skirmishing with English forces, and the manner in which particular families were establishing a proprietary interest in certain monastic houses.

James V's nomination of David Paniter to the priory of St. Mary's Isle was also challenged by another candidate. The king nominated Paniter on 8 April 1536, describing him as a blood-relation.³¹ Paniter himself petitioned for provision a month later, giving the cause of voidance as the death of Robert Erskine, and was duly provided by the pope.³² In mid-July, however, Nicholas Williamson, a canon of Holyrood, asked for provision to the priory, claiming that the election of a prior was the prerogative of the abbot and convent of Holyrood and that they had chosen him.³³ If accurate, this suggests that the opposition to the king on this occasion came from the chapter at Holyrood exercising its right of presentation to a dependent priory. On 28 August, however, James wrote to the pope saying that he had learnt that John Douglas had sought the priory and he asked that any grant to Douglas should be annulled.³⁴ There is no extant record of this petition from Douglas in the register of supplications, so the details of the case remain obscure. Opposition to the nomination of a man like David Paniter, who was a royal servant, would take some determination. It is just possible that the pope was opposed to the appointment, although the fact that Paniter received papal provision as a result of his petition argues strongly against this. In any case, Paniter obliged himself

³¹ James V Letters, p.315.

³² 9 May (Reg. Supp. 2213, f.257-257^v; Provision (Reg. Vat. 1458, f.121-125).

³³ 13 July (Reg. Supp. 2217, f.32^v-33^v).

³⁴ James V Letters, 322.

for the annates of the priory later in 1536, and it is clear that royal wishes were again successful.³⁵

The priory of Ardchattan was also the subject of a dispute in 1537. On 6 April, John Campbell, a canon of Lismore, petitioned for provision to the priory, saying that it had been unlawfully detained by Duncan Macarthur.³⁶ That this was not the whole story becomes clear in a letter from James V to Paul III one year later. According to this account, Duncan had been lawfully promoted by James IV thirty years before. There was some internal dissension between Macarthur, who was now an old man, and Campbell, whom Duncan believed to be incompetent. James, who took Macarthur's side in the dispute, consequently opposed Campbell's petition.³⁷ It is highly unlikely that the papacy was involved in any way in this dispute. Much more probably, it had its roots in personal animosities, or was possibly connected in some way with local relationships on the western seaboard. The king may have become involved because ties between Campbell and the Argyll family elevated a minor dispute to a more important level so far as authority in the west was concerned. In fact, Campbell appears to have obtained the priory with the support of the crown in 1545, following Macarthur's death.³⁸

Another benefice where some difficulty arose over the provision was at Kilwinning, which was held by Alexander Hamilton up to 1541, although in this case, it is not entirely certain that there really was a dispute over possession. Hamilton had earlier been forced, apparently by papal pressure, to rescind a written compact with

³⁵ 11 Nov. (PRO 31/9-33/47).

³⁶ Reg. Supp. 2245, f.187-187^v.

³⁷ 9 April 1538 (James V Letters, 345-6).

³⁸ See below, p.86.

James, earl of Arran and Sir James Hamilton of Finnart that their nominee should succeed him.³⁹ On 13 February 1541, James V wrote to Paul III explaining that Hamilton had decided to resign in favour of Henry Sinclair, a canon of Glasgow, whilst retaining all the fruits of the abbacy, his authority and the right of regress.⁴⁰ The request was repeated by James at the very end of the year.⁴¹ Sinclair was also a judge of Session and clearly in royal favour. Hamilton and Sinclair jointly repeated the request in a petition of 1 May 1542;⁴² Henry was provided *in commendam* on that day while a separate bull granted Alexander his pension - essentially the retention of the rule of the monastery and its revenues and fruits for life.⁴³ However, by September, Sinclair was asking for prorogation of the provision on the grounds that he was unable to publish the resignation and his provision, and was therefore unable to obtain the abbacy.⁴⁴ The death of the king makes it difficult to assess his part in the matter. Both Hamilton and Sinclair promised to pay the common services for the regress and the commend respectively in February 1543, Alexander being described then as the former abbot of Kilwinning.⁴⁵ In 1545, however, Hamilton set the whole revenues of the abbey to Sinclair for 5 years for 1000 merks annually.⁴⁶ This appears to be

³⁹ St. Andrews Formulare, II, 25-37. The date must be prior to February 1539 since Robert Montgomery, bishop of Argyll, deputed to hear and judge the case, was dead by then.

⁴⁰ James V Letters, 419.

⁴¹ 30 December, James V Letters, 434.

⁴² Reg. Supp. 2454, f.190-190^v.

⁴³ Sinclair's provision (Reg. Vat. 1610, f.193-196); Hamilton's pension (Reg. Lat. 1719, f.161-162^v).

⁴⁴ 27 Sept. (Reg. Supp. 2469, f.209-209^v).

⁴⁵ 27 Feb. Hamilton's obligation (PRO 31/9-33/122-3); Sinclair (PRO 31/9-33/123-4).

⁴⁶ 20 April (ADCP, p.563-4).

the first point at which Sinclair was able to obtain anything tangible from the arrangement, although he had to pay several pensions to members of various Hamilton families from these revenues. This situation continued for five years until Sinclair was described in 1550 as resigning the monastery in favour of another member of the Hamilton family in Gavin Hamilton,⁴⁷ who retained it until after the Reformation. An arrangement which appears originally to have been a straightforward attempt to secure the succession by a resignation with retention of both authority and the revenues, in practice, took several years to become effective and did so then in a different form. It is certainly unlikely, however, that Paul III was involved in any way in these events.

In only three of these disputes - Dryburgh, Culross and Inchcolm - is it reasonably certain that the papacy was taking an active part in any opposition to royal nominees. It is difficult to believe that either Clement VII or Paul III had strong hopes of being able successfully to provide one of their own nominees to a monastic house, although it is possible that Paul III did believe that, in the circumstances, Wauchope might be allowed to retain Dryburgh. That the pope generally had more realistic aims is suggested by the events after the vacancy at Kelso in 1534. In a petition of 12 January 1535, asking for provision for his son James Stewart (the elder of that name) to the monastery, James V tried to free Kelso from at least 100 ducats of the pension promised to Sixtus Zucchellus in recognition of his services at Rome to the Scottish crown,⁴⁸ and

⁴⁷ 10 April (RSS, iv, no.644); I.B.Cowan and D.E.Easson, Medieval Religious Houses, Scotland, 2nd ed., (London, 1975), 69. Gavin Hamilton and Henry Sinclair exchanged the deanery of Glasgow and the abbacy of Kilwinning (see also Fasti, 156).

⁴⁸ Reg. Supp. 2162, f.79-79v. The king had previously asked, on 31 Oct. 1534, that his natural son, James, should be provided to

this appears to have been accepted by the pope. Within three years, however, James Stewart was also trying to free the monastery of the remaining 100 ducats.⁴⁹ This objective was supported by his father, who offered to cancel the pension on the fruits of Kelso by paying 500 *aureos solares* in a letter to Sixtus dated 28 February 1538,⁵⁰ and this offer was accepted by Sixtus later that year.⁵¹ The attempt by both Clement VII and Paul III to obtain a pension for Sixtus from several benefices in turn was a long drawn out affair, with James V clearly avoiding commitment and payment at every opportunity.⁵² On this occasion, as with the bishopric of Aberdeen in 1532, it was unsuccessful. Thus, even the modest attempt by the papacy to obtain some financial benefit from the remains of its authority was not a success. The apparent willingness with which the pension was given up may indicate a relative lack of enthusiasm or conviction at Rome about the value of such pensions.

It is clear that royal authority was adequate to maintain the royal right of nomination in normal conditions against opposition from the papacy. These were the only instances during James's reign when a threat of any kind was posed to his nominations to monastic houses. But the financial needs of the Scottish crown demanded a more direct use of the power of nomination. This was achieved by James V through the nomination of his illegitimate sons to several of the richest Scottish houses. He obtained a dispensation from Clement VII in August 1534 for three of his illegitimate sons to take holy

the abbacy *in commendam* without mentioning this pension
(James V Letters, 279).

⁴⁹ 3 Aug. 1537 (Reg. Supp. 2254, f.87).

⁵⁰ James V Letters, 341-2.

⁵¹ 25 July (PRO 31/9-33/89).

⁵² James V Letters, *passim*.

orders and hold incompatible benefices, having sought this privilege from the pope over a year earlier.⁵³ This grant was a further example of the pressure James was able to bring to bear on the papacy, taking advantage of the activities of his uncle, Henry VIII. Loyalty on the part of James demanded just reward from the papacy and this dispensation was part of the reward sought. James's solution not only coincided with his general conservatism in religious matters but was a more realistic one than that of his uncle in purely financial terms. By the provision of his illegitimate sons, James regularly obtained the substantial revenues of these houses. Bishop Lesley claimed indeed that these revenues were of greater profit to him than 'all the whole revenues of the crown'.⁵⁴ As has been remarked in another context, it 'meant the possibility of tapping the church's wealth without destroying the reservoir from which it flowed',⁵⁵ and herein lies its essential difference from the policy followed south of the border.

This policy may be illustrated by the provision of two of these sons to Holyrood in 1538. In order to do this, James had to move Robert Cairncross from the abbacy to the vacant bishopric of Ross.⁵⁶ On 16 December, the king recommended Robert Stewart, an illegitimate son, for the abbacy. He spoke in his letter of his natural affection for his children and, rather less convincingly, of his devotion to the authority of the ecclesiastical order. Concurrently, in another letter

⁵³ 27 Feb. 1533 (James V Letters, 235). For brief details, see M.Mahoney 'The Scottish Hierarchy 1513-1565', 50; W.J.Anderson 'Rome and Scotland, 1513-1625', Essays on the Scottish Reformation, ed. D.McRoberts, 469.

⁵⁴ Lesley, History, 154-5.

⁵⁵ W.Stanford Reid 'Clerical taxation', Catholic Historical Review, vol.35 (1948), 135.,

⁵⁶ See above, p.38.

to Paul III, he suggested that if Robert was too young, he being 4, he would offer his elder brother John, who was 6.⁵⁷ This nomination was supported by a royal petition on Robert's behalf, and he was provided as commendator 14 April 1539.⁵⁸

This manoeuvre was repeated on two further occasions with the abbacy of Melrose and the priory of St. Andrews. The vacancy at Melrose in 1541 was created by the promotion of Andrew Dury to the see of Galloway.⁵⁹ James Stewart, the elder illegitimate son of that name and already commendator of Kelso, was nominated on 3 July 1541 and provided *in commendam* on 22 August, being about 12 at the time.⁶⁰ As some form of compensation, Andrew obtained the reservation of a pension of 1000 merks Scots from the fruits of Melrose.⁶¹ The promotions did not go altogether smoothly for, in November of that year, James V protested that curial officials were demanding too great a promotion tax, and complained that the alienation of property in the neighbourhood of the abbey, which had reduced its value, and the constant expense for the abbot in maintaining the remaining property made it necessary that the excessive demands of the curia should be reduced.⁶² Clearly James was determined to obtain the maximum financial advantage from the appointment of his sons to monasteries, and his successors adopted

⁵⁷ James V Letters, p.357-8.

⁵⁸ Reg. Supp. 2326, f.124v-126; Provision (Reg. Vat. 1523, f.59-60); PRO 31/9-65/32, noting the promise to pay the common services, gives the date of provision as 15 March 1549, but this must be an error; precept of admission to the temporalities, 18 Aug. 1539 (RSS, ii, no.3127).

⁵⁹ See above, p.38.

⁶⁰ Nomination (James V Letters, 425); Provision (Reg. Lat. 1730, f.272-274, f.309-312^v).

⁶¹ Reg. Vat. 1644, f.46-48; PRO 31/9-33/147.

⁶² 6 November (James V Letters, 433).

the same policy: Andrew Dury indeed experienced considerable difficulty in extracting his pension: in 1544, Mary of Guise complained to the pope that Andrew was pushing for his pension and asked that he be censured.⁶³

The vacancy in the bishopric of Moray in 1538 provided an opportunity for the king, by moving Patrick Hepburn to the northern see, to obtain the priory of St. Andrews for James 'junior', later the earl of Moray.⁶⁴ He was nominated to the priory in March on the grounds that the royal dignity of the nominee would be advantageous in restraining the Protestant contagion: he was six years old.⁶⁵ Young James was given papal provision as commendator on 14 June with the proviso that a bishop or abbot should be appointed to administer the monastery until his fourteenth year.⁶⁶

James obtained the priory of Coldingham for another natural son, John, who was eight years old in 1541, by obtaining the transfer of Adam Blacader, the existing commendator, to the abbacy of Dundrennan, which was itself vacant by the death of Henry Wemyss, bishop of Whithorn and commendator of the abbey. In the nomination, dated 3 July, he sought permission for the administrators to lease the teinds of both Coldingham and Melrose for nineteen years or to set the lands in feufarm, an indication of the trend towards the secularization of monastic revenues at a local level in

⁶³ 15 October (SRO, Elphinstone MS (SP1/2), f5, no.106. The English raids on the borders were given as the reason for not wishing to pay the pension. It was still causing trouble on 4 September 1546, when a commission was sitting regarding the pension (Reg. Supp. 2581, f.124).

⁶⁴ See above, p.37.

⁶⁵ 1 March 1538 (James V Letters, 343).

⁶⁶ Reg. Vat. 1511, f.156-158. In a petition dated on 30 September, James admitted an error in the stated value of the monastery, it being given as £400 sterling instead of £1000 sterling and sought a new provision (Reg. Supp. 2307, f.124^V-125^V).

order to obtain ready finance, which was becoming increasingly common.⁶⁷ Once again, the royal connection was put forward as a likely bar to the spreading of the Protestant heresy into southern Scotland.⁶⁸ This provides a further illustration of James's policy of putting pressure on the papacy to extract maximum financial benefit from the uncertain religious situation. The royal recommendation was supported by a petition in the names of both Blacader and John, and papal provision *in commendam* was given to John on 16 August 1541.⁶⁹ In achieving this transfer, James found it expedient to make some financial concessions, but not to the papacy. A pension of 400 merks Scots reserved annually on the fruits of Dundrennan for John Maxwell was transferred to Coldingham,⁷⁰ and Blacader was granted the right to uplift arrears due to him whilst he was commendator of Coldingham and to retain the fruits of the priory up to the date of publication of his Dundrennan bull.⁷¹ It should be noted that Coldingham was burnt by Hertford in 1542 and occupied by the English for a period in 1544 and 1545.⁷² Whether the teinds were already leased, as was proposed in the 1541 letter of nomination, in which case the financial return to the crown was guaranteed, or

⁶⁷ M.H.B.Sanderson, Scottish Rural Society in the sixteenth century (Edinburgh, 1982), 67-75, 189-90.

⁶⁸ James V Letters, p.426-7.

⁶⁹ Reg. Supp. 2434, f.237-238; Provision (Reg. Vat. 1590, f.51^v-54).
John Stewart obliged himself for the annates on 17 July 1542, having already paid 6 ducats on 4 July (PRO 31/9-33/139-140); St. A. Form., ii, 139-43.

⁷⁰ 16 August 1541 (Reg. Lat. 1729, f.365^v-368^v).

⁷¹ 16 Aug. 1541 (Reg. Vat. 1590, f.47-51).

⁷² Cowan and Easson, Medieval Religious Houses, Scotland, 57.

whether the crown bore the financial loss which these attacks must have occasioned is not known.⁷³

The need for an abbot of royal blood was again emphasised in the earliest of James V's nominations of his sons, that of the elder James Stewart to the abbacy of Kelso, dated 31 October 1534,⁷⁴ supported by a petition early the following year.⁷⁵ The abbacy was vacant due to the death of Thomas Ker, the previous holder. Exactly a month later, confirmation was sought and made of all the privileges granted to the abbey by Scottish kings and popes.⁷⁶ More interesting, however, is the successful attempt to clear the abbacy of the pension owed to Sixtus Zucchellus on the fruits of the monastery.⁷⁷ The temporalities were finally granted to James Stewart on 17 August 1539.⁷⁸ The fact that the fruits were leased in tack to Hamilton of Sanquhar in 1541 suggests that the crown was becoming still more in need of money.⁷⁹

While James V clearly sought these benefices for his sons because of the revenues they could bring, he also saw the need to maintain the economic viability of the religious houses themselves as a source of future revenue. For that reason, administrators were

⁷³ For a brief account, see M.Dilworth, 'Coldingham Priory and the Reformation: notes on monks and priors'. *L.R.*, xxiii (1972), 126-7. Much of the Coldingham land was feued in the 1550s by John Stewart (Sanderson, *Scottish Rural Society*, 97).

⁷⁴ *James V Letters*, 279.

⁷⁵ 12 Jan. 1535 (Reg. Supp. 2162), f.79-79^v).

⁷⁶ 12 Feb. (Reg. Supp. 2163, f.83^v-84; Reg. Lat. 1635, f.181-183^v). He promised to pay the common services within a year on 18 Feb., and the fulls were released (PRO 31/9-65/26).

⁷⁷ See above, p.66.

⁷⁸ *RSS*, ii, no.3126.

⁷⁹ *RSS*, ii, no.3155; *ADCP*, 638; Hamilton also administered the affairs of Melrose, the other abbey held by James Stewart (Sanderson, *Scottish Rural Society*, 71).

appointed to run the houses until the children were of an age to take personal charge. Hamilton of Sanquhar, noted above in connection with Kelso, was administrator of Melrose on behalf of the elder James Stewart.⁸⁰ Alexander Myln, the distinguished abbot of Cambuskenneth, was also administrator for Robert Stewart at Holyrood and for the younger James Stewart at St. Andrews. John Philp, abbot of Lindores, fulfilled that function for James Stewart the elder at the abbey of Kelso.⁸¹

Having placed his sons in some of the richest monasteries, James did however also use such benefices to reward his government officials. Gavin Dunbar, when already Archbishop of Glasgow and Chancellor of Scotland, was nominated to the abbacy of Inchaffray in March 1538.⁸² besides his obvious public services, he had been James's tutor, a fact which James mentioned in his letter of nomination. He was provided *in commendam* on 29 July.⁸³

David Paniter who, as has been seen, was provided to the priory of St. Mary's Isle in 1536, was another royal servant who eventually became secretary in 1543. Earlier, however, he was nominated by James V as successor to the abbot of Cambuskenneth on 7 August 1534. It was stated that his father had previously been commendator of the abbey, but James hoped that this would not be an impediment.⁸⁴ He claimed that this nomination was made on the grounds of the age of the incumbent abbot, Alexander Myln. In fact,

⁸⁰ Sanderson, Scottish Rural Society, 71.

⁸¹ Dilworth, 'Coldingham priory', 58 n.69.

⁸² 11 March (James V Letters, 344).

⁸³ PRO 31/10-14/102. He promised to pay the common services on 19 August and the bulls were released. (PRO 31/9-65/28-29).

⁸⁴ James V Letters, 273. His father, Patrick, also preceded him as secretary, holding that post from 1506 to 1519.

Alexander lived until 1548, and it was not until then that David himself petitioned for, and received, papal provision *in commendam* on 14 October, by which time he had risen to be bishop of Ross.⁸⁵

The support given by James V to David Beaton in his attempts to secure the fruits of Arbroath provide a further example of the king rewarding a civil servant in this way. The house was the richest in Scotland, and David and his uncle, James, had been in dispute regarding the fruits for some time.⁸⁶ David was provided to the abbacy as commendator on 26 June 1524,⁸⁷ but the dispute continued until 1535. James Beaton appears to have attempted to obtain some amplification of the arrangement by which he would obtain regress to the abbacy in the event of a vacancy: he wished to get regress regardless of the manner in which the abbacy became vacant, whereas the original arrangement had been that he would obtain regress only if David died. This may or may not have been prompted by the fact that David was evading payment of half the fruits of the abbacy to his uncle as had been stipulated in the original resignation. In the middle of 1534, James Beaton revoked a resignation of the benefice which he had made in March 1533 in favour of David.⁸⁸ The king, however, clearly supported David and the litigation was apparently brought to an end in 1535 when a concord was agreed, confirmation being obtained from the pope on 24

⁸⁵ Petition (Reg. Supp. 2646, f.2^v); Provision (Reg. Vat. 1682, f.274-276^v); he promised to pay the common services on 19 November (PRO 31/9-33/130, and was admitted to the temporalities on 3 March 1549 (RSS, iv, no.136).

⁸⁶ Herkless and Hannay, Archbishops, IV, 9,12-13,220; St. Andrews Rentale, xx-xxi; Acta Sessionis, 25-32; ADCP, p.240; M.H.B.Sanderson, Cardinal of Scotland, 22-3.

⁸⁷ PRO 31/9-32/25-26.

⁸⁸ James V Letters, 272,288,296; PRO 31/9-32/303. For David's evasion of payment, see Sanderson, Cardinal of Scotland, 22-23.

September.⁸⁹ By this agreement, David was to pay 1800 merks annually to his uncle. His earlier conduct makes it highly unlikely that James Beaton ever did receive anything like the full financial benefit of this agreement. James V strongly supported David whom he regarded as an invaluable advisor and servant; moreover, the king's animosity towards the primate is clearly indicated in royal letters. Beaton had led clerical opposition to James's policy of ecclesiastical taxation in the early 1530s. These positive and negative motives can both be seen behind the king's actions in this dispute over the richest of the monasteries.

It should be noted that James also gave additional support to the men who had been displaced from lucrative abbacies to make way for his illegitimate sons by nominating them to other religious houses. Patrick Hepburn, who was promoted to the bishopric of Moray, also received the abbacy of Scone in 1538. James, in his nomination dated 1 March, said that he would thus be more accessible for affairs of state.⁹⁰ He was provided to the benefice on 14 June.⁹¹ Robert Cairncross, having moved to the see of Ross from the abbey of Holyrood, was similarly nominated by James V to the abbacy of Fearn on 9 March 1541.⁹² He himself petitioned the pope to the same effect in the following month and was duly provided on 16 April.⁹³

The foregoing examination indicates that James V was actively involved in the majority of appointments to the headships of monastic

⁸⁹ Reg. Supp. 2190, f.5^V-6; Reg. Supp. 2192, f.133^V-134; Reg. Vat. 1702, f.359-361^V.

⁹⁰ James V Letters, 342-3.

⁹¹ PRO 31/10-14/85-86. The temporalities of the abbacy had already been granted on 28 March (RSS, ii, no.2493).

⁹² James V Letters, p.420-1.

⁹³ 16 April. Petition (Reg. Supp. 2427, f.37^V-38); Provision (Reg. Vat. 1591, f.50-51^V). In this case, the temporalities were not granted until 21 October (RSS, ii, no.4267).

houses. This was not always the case, however. In some cases, this was presumably because they were small religious houses, valued at less than two hundred florins and were not therefore subject to royal recommendation. One example of an appointment of this kind is that of Donald Macduffie to the Hebridean priory of Oronsay, a priory which paid annates as a promotion tax rather than common services. Macduffie was a canon of the priory and may simply have been elected by his colleagues in April 1538 when Donald MacPhail, his predecessor, resigned.⁹⁴

The lack of royal involvement was also understandable in the case of dependent priories, usually filled by nomination by the mother house,⁹⁵ although the instance of the priory of St. Mary's Isle, quoted at the beginning of this chapter, shows that this did not always free such a benefice from royal interest. Nor seemingly, did these rights of the mother house prevent benefice-seekers taking their cases to Rome. There was a dispute over the priory of Restennet, a dependent house of Jedburgh, during Clement VII's papacy when 3 candidates sought provision at Rome in the early 1530s.⁹⁶

The dispute over the priory of Blantyre, also dependent on Jedburgh, which began in 1536, was a long drawn-out affair. Early in January, Robert Cottis had resigned the priory in favour of William Cottis with reservation of the fruits for his lifetime;⁹⁷ this was clearly a case of the family trying to secure its own succession

⁹⁴ 28 April (Reg. Supp. 2285, f.131-132; Reg. Vat. 1510, f.14-15).

⁹⁵ Cowan, 'Patronage, provision and reservation', 81.

⁹⁶ Cowan, *ibid*, 81.

⁹⁷ 6 Jan. 1536 (Reg. Supp. 2224, f.88^V-89; PRO 31/9-33/34); *St. A. Form.* ii, no.354. On 6th June, he sought prorogation of the provision because the papal letters had not reached Scotland within the specified time (Reg. Supp. 2228, f.142^V).

in this benefice. Almost seven months later, William resigned in favour of Robert Cottis junior and together they sought provision for Robert, which was granted.⁹⁸ Soon, however, there were other claimants: the first signs of trouble appeared on 15 December when Robert asked for a new provision *in commendam* because the original one had not been unanimously accepted.⁹⁹ Five days later, James Salmond, a Scottish procurator in Rome, who had previously acted for the younger Robert, threw his hat into the ring, claiming that Robert Cottis had died in a reserved month.¹⁰⁰ A year later, on 2 January 1538, John Donaldi, an Augustinian canon, laid claim to the priory, saying that he had received it by authority of the ordinary.¹⁰¹ A fourth claimant entered the field when John Moncreif, simply described as a clerk of St. Andrews, sought provision to the priory four months later.¹⁰² The dispute in fact continued until 1545, rather surprisingly leaving Moncreif the victor, one at least of the Cottis family having indeed died in the meantime.¹⁰³ The surviving Cottis claimants, William and Robert junior received nothing for their efforts in seeking the benefice. John Donaldi had ceded his right in the benefice sometime between 1541 and 1543, when he was

⁹⁸ 24 July (Reg. Supp. 2223, f.202-202^V; PRO 31/9-65/127); Provision (Reg. Vat. 1455, f.252-255). See also St. A. Form. ii, no.355. He obliged for the annates on 6 December (PRO 31/9-33/47).

⁹⁹ Reg. Supp. 2244, f.89^V-90.

¹⁰⁰ Reg. Supp. 2241, f.224^V.

¹⁰¹ Reg. Supp. 2269, f.208-208^V. Two other petitions from Donaldi are registered, dated 18 January (Reg. Supp.2278, f.235-235^V) and 23 January (Reg. Supp. 2279, f.97^V-98).

¹⁰² 28 April 1538 (Reg. Supp. 2298, f.42^V-43).

¹⁰³ According to Reg. Supp. 2278, f.235-235^V, Robert Cottis senior had died in October or November 1536, Reg. Supp. 2298, f.43-43^V, dated 27 April 1538, is equivocal, stating first that Robert junior had died, then that it may have been Robert senior. It is inherently more likely that the older man had died.

apparently bought off with a pension of £10 Scots.¹⁰⁴ Salmond, however, did not yield his right to the benefice until 1545,¹⁰⁵ and there is no evidence that he obtained any pension from the revenues. Moncreif himself died before 24 September 1547 when he was succeeded by John Roull, prior of Pittenweem.¹⁰⁶ What is unusual about this case is that the dispute took place at all. Although many dependent priories were the subject of dispute, this was not generally the case with the dependent houses of Jedburgh.¹⁰⁷ On this occasion, however, Blantyre seems to have effectively escaped from Jedburgh's control and become the subject of considerable litigation. The connection with the mother house may already have become tenuous in the 1530s,¹⁰⁸ and it is not unlikely that the disruption caused by the Rough Wooing had been sufficient to loosen the ties still further. Given the advantage which the Cottis family had in already holding the benefice, it is perhaps surprising that Moncreif eventually emerged as the victor; there is no obvious explanation for this.

In one other instance, the existing records appear to indicate a lack of royal involvement, but it is not unlikely that this simply reflects the loss of relevant records. The transfer of the abbacy of Culross from William Colville to his nephew, John, in February 1535 might have been thought to have been of interest to James V if only

¹⁰⁴ Donaldi ceded his right in the benefice to Moncreif on 5 April 1541 (Reg. Supp. 2422, f.240-241), but on 18 December is described as having transferred his right to Thomas Hugonis: there is no further mention of this fifth candidate. (LP Henry VIII, xviii, pt.2, no.503).

¹⁰⁵ 26 February 1545 (Reg. Supp. 2539, f.292^v-293).

¹⁰⁶ RSS, iii, no.2447.

¹⁰⁷ Cowan, 'Patronage, provision and reservation', 81.

¹⁰⁸ Cowan and Easson, Medieval Religious Houses, Scotland, 89.

because he had nominated William to the commendatorship in 1531. This was one of the many cases of resignations made to effect the transfer of benefices between two members of the same family in order to secure possession within the family. William resigned the benefice, but retained all the fruits as a life-pension together with the right of regress if John vacated the abbacy. The petitions and bulls mention letters of support from James V but, if these did exist, they do not appear to have survived.¹⁰⁹ William Colville in fact continued as commendator until 1560, while John was described as abbot until 1550. The house was also eventually erected into a temporal lordship for the Colvilles of East Wemyss, so the final objective of the transfer was achieved.¹¹⁰

It is clear that James's main purpose in making his nominations to monastic houses, particularly to the wealthy ones, was financial: his major appointments were designed to raise considerable funds for the crown. Unlike the bishoprics, however, he was quite direct in his methods with the religious houses. There is no evidence that he tried to obtain pensions for members of his family on the fruits of monasteries which had been granted to people outside the royal family. On the other hand, his concern at the flow of promotion taxes out of the country to Rome is shown by his protest in the case of Melrose, that curial officials were asking for promotion and other taxes at much higher rates than formerly.¹¹¹ He was also able to

¹⁰⁹ Petition registered 1 March 1535 (Reg. Supp. 2181, f.125^v-126^v); Provision to John, 26 Feb. (Reg. Vat. 1467, f.311-314^v); Pension and regress to William, 1 March (Reg. Lat. 1642, f.297^v-300); John promised common services, 9 June 1536 (PRO 31/9-65/26-27, 27-28).

¹¹⁰ Dilworth 'The commendator system', 65, no.123. Dilworth describes John as William's brother, but the Vatican records describe him as his nephew; Cowan and Easson, Medieval Religious Houses, Scotland, 74.

¹¹¹ See above, p.69.

prevent the papacy from obtaining any financial benefit from the fruits of Kelso.¹¹² Not only, therefore, was James able to improve his own financial position by the provision of his illegitimate sons to some of the wealthiest houses, but he was also able to thwart the financial objectives of the papacy.

It is not quite so easy to ascertain James V's policy with regard to the timing of appointments to the headships of monastic houses as is the case with bishoprics. To a large degree, this is because many of the abbacies were vacated not by death but by resignation, in several cases at the crown's own wish. Where there is clear evidence, however, the pattern is very similar to that of the bishoprics: if anything, indeed, James moved even more rapidly. Thomas Erskine, for example, was given crown nomination to Dryburgh within one month of James Stewart's death.¹¹³ Royal nomination of William Colville to the abbacy of Culross took place 24 days after the murder of James Inglis on 4 March 1531.¹¹⁴ The nomination of David Paniter to St. Mary's Isle appears to have taken place with even greater speed: the death of Robert Erskine is recorded in a supplication as occurring in April 1536 and Paniter's nomination was made in a royal letter of 8 April.¹¹⁵ It is clear that James V's concern was to ensure that these benefices were filled as rapidly as possible.

It has already been noted that the position of the earl of Arran as governor differed from that of James in that he lacked the

¹¹² See above, p.73.

¹¹³ James V Letters, 380; Reg. Vat. 1707, f.45-47^v.

¹¹⁴ James V Letters, 190.

¹¹⁵ Reg. Supp. 2213, f.257-257^v; James V Letters, 315.

authority of the crown and was also under constant pressure from a number of factions in and out of government.¹¹⁶ Nevertheless, as with the bishoprics, Arran attempted to follow the same general policies. Relatively early in his rule, Parliament determined that the surplus revenues of the abbacies and priories held by James V's sons beyond those required for their sustenance should be 'convertit and deliverit to the quenis grace comptrollar for the honourable sustentatioun of hir grace my lord governor hir tutour.'¹¹⁷ This move had obvious financial roots, as had his policy of nominating members of his own family to the headships of major monastic houses.

John Hamilton, brother of the governor, was allowed, for example, to retain the wealthy abbacy of Paisley when he was nominated to the bishopric of Dunkeld on 24 January 1544.¹¹⁸ An attempt was made later that year to further secure the family's grip on the revenues when John offered to resign the abbacy in favour of his brother, James, while reserving all the fruits of the abbacy for his life and giving him the right of regress in the event of a vacancy.¹¹⁹ For whatever reason, however, this was not done and it was John who was given provision to Paisley on 19 December.¹²⁰ An attempt by the Angus faction apparently to force him to resign in favour of George Douglas at the end of 1548 was successfully resisted when he revoked the resignation made at that time on 15 May 1549.¹²¹ If this is the correct interpretation of this incident, it is indicative of the frailty of Arran's authority.

¹¹⁶ See above, Chapter 2.

¹¹⁷ APS, ii, 423.

¹¹⁸ LP Henry VIII, xix, pt.1, no.56,57.

¹¹⁹ 8 June 1544 (LP Henry VIII, xix, pt.1, no.645).

¹²⁰ Reg. Lat. 1758, f.156-158^v.

¹²¹ PRO 31/9-66/292.

The abbacy of Inchaffray, though much poorer, was similarly sought for Arran's eleven-year old son, James, and he was granted papal provision *in commendam* on 28 November 1547.¹²²

Smaller houses also fell into the net of the Governor's family. The little nunnery of Eccles was one such. On 19 June 1548, the temporalities and spiritualities of this benefice were gifted to Mariota Hamilton, daughter of James Hamilton of Innerwick, by the crown, and the vicar-general of the see was ordered to promote her.¹²³ It has been argued that this particular appointment represented a significant change in that this provision was made wholly without reference to Rome.¹²⁴ However, a royal letter of nomination in a transcript of the eighteenth century suggests that this was not the case.¹²⁵ There is, in fact, further contemporary evidence in Vatican records for reference to Rome. A petition of 18 April 1548 records that Mariota had been elected by the convent, meeting in the parish church of Bothkennar, having retreated there after the English had burnt the monastery and killed the men of the convent's lands. She had then transferred her right to Elizabeth Hume, because she could not take possession, and the petition asked that Elizabeth be given papal provision.¹²⁶ This may represent an attempt by the Humes to take over the monastery but, if so, it was unsuccessful. A fortnight later, Mariota herself petitioned for a new provision and for confirmation of her election by the 'greater and wiser part' of the

¹²² Reg. Vat. 1698, f.94-94^v; PRO 31/10-14/123.

¹²³ RSS, iii, no.2833.

¹²⁴ Donaldson, Scottish Reformation, 45; RSS. v. Introd., iii-iv.

¹²⁵ M.Mahoney, 'The Scottish Hierarchy, 1513-1565', 45.

¹²⁶ Reg. Supp. 2661, f.2^v.

convent.¹²⁷ The petition for confirmation suggests that she was uncertain of her position but in fact she retained the benefice until 1566.¹²⁸ There is therefore ample evidence of the involvement of the curia in this particular provision. What was more significant was the further advancement of the Hamilton family. While none of these sources state a close connection with the governor, Arran's involvement in the gift of both temporalities and spiritualities combined with the peremptory command to the vicar-general to promote Mariota does indicate that, whatever the family link, the Governor was concerned to see her appointed.

There is also evidence of an unsuccessful attempt by the Hamiltons to obtain yet another monastic house, the Trinitarian house of Failford, in 1544. At that time, the house was held by Robert Cunningham, son of the Earl of Glencairn. On 30 May, the ministry of the house was gifted by the crown to Robert Hamilton, son of James Hamilton of Stenhouse, on the grounds that Cunningham had forfeited it to the crown by arraigning himself with his father on the Boroughmuir at Glasgow.¹²⁹ Glencairn, one of Henry VIII's 'assured Scots' had fought, and been defeated by, the governor's superior forces on 24 May 1544.¹³⁰ There is no evidence that this presentation was successful and, in December 1546, Robert Cunningham was still described as minister of Failford.¹³¹

¹²⁷ 4 May (Reg. Supp. 266r, f.4^v; Reg. Supp. 2673, f.125^v).

¹²⁸ Cowan and Easson, Medieval Religious Houses, Scotland, 146.

¹²⁹ RSS, iii, no.808. Hamilton of Stenhouse was captain of Edinburgh Castle.

¹³⁰ Diurnal of Occurrents, 32. On 17 May, Glencairn had been pensioned by Henry VIII by proxy at Carlisle and was probably trying to implement his side of the agreement. (Cal. State Papers. (Thorpe), I, 46).

¹³¹ ADCP, 560. He retained the position till after the Reformation (Cowan and Easson, Medieval Religious Houses, Scotland, 109).

The Hamiltons were not, however, the only family to benefit from the revenues of the monasteries. The abbacy of Jedburgh in the 1540s was in the possession of the Humes, a powerful border family. In 1547, succession was assured by the resignation of John Hume in favour of Andrew Hume, with the retention of all the fruits and revenues and the right of regress in the event of a vacancy.¹³² According to the bull, one-third of the fruits were to be devoted to the restoration of the fabric and one-quarter to the needs of the convent. The ravages of the Rough Wooing were simply the culmination of seventy years of physical neglect so it is little wonder that the fabric required restoring.¹³³ Even if this instruction was adhered to, which seems unlikely at this date, the family must have been obtaining some financial advantage from their continued hold on the revenues. The bull of provision states that Hume was supported by the governor: Arran could not afford to offend a powerful family which controlled land on the very vulnerable frontier.

The priory of North Berwick affords another example of the manner in which the headship of a particular monastic house might be passed on within a single family: the Humes were once again the family involved. There is a record of crown nomination on 5 May 1543 for Margaret Hume.¹³⁴ A year later, the incumbent, Isabella Hume, petitioned to be allowed to resign in favour of Margaret, with the grant of a pension of £300 Scots annually on the fruits to Isabella,¹³⁵ and Margaret was duly provided.¹³⁶

¹³² 28 Nov. (Reg. Vat. 1698, f.171-177^v).

¹³³ Cowan and Easson, Medieval Religious Houses, Scotland, 92.

¹³⁴ SRO, Elphinstone MS (SP1/2), no.64.

¹³⁵ 27 April 1544 (Reg. Supp. 2510, f.226^v-267).

¹³⁶ 27 April 1544 (Reg. Lat. 1749, f.226^v-228).

Other noble families also benefited from Arran's relative insecurity. The Keith family was one such, with the abbacy of Deer as its prize. On 22 January 1543, Robert Keith, brother of the Earl Marischal, was presented to the abbacy on the resignation of John Innes.¹³⁷ Early in May, Arran was stated, in a royal letter to the Cardinal of Carpi, to be seeking the provision of Robert to the abbey which would "soon become" vacant by the resignation of John Innes.¹³⁸ The resignation took place on 24 June, though John was to retain the title of abbot, all the fruits and the right of presentation to all appropriated churches, along with the right of regress in the event of a vacancy. Robert Keith was, in the meantime, to be paid an annual pension of £40 Scots and several other smaller pensions were also to be levied on the fruits.¹³⁹ Almost a year later, in June 1544, a contradictory royal letter was sent, nominating David Paniter *in commendam*.¹⁴⁰ Since this was during the period when Mary of Guise was trying to oust Arran, it seems probable that this was an attempt at a counter-nomination. If so, it was unsuccessful, because Robert Keith himself made a successful petition the following month for provision *in commendam*, claiming that John Innes had now died.¹⁴¹ A few weeks later, the gift of the abbacy 'with all its fruits, profits, rents and lands, now vacant and in our sovereign lady's hands' was made to Robert, on the death of John Innes.¹⁴² On 12 February of the following year, Arran wrote to Paul III asking

¹³⁷ RSS, iii, no.46.

¹³⁸ 3 May (LP Henry VIII, xviii, pt.1, no.499).

¹³⁹ Reg. Supp. 2496, f.155; PRO 31/9-33/149.

¹⁴⁰ 13 April 1544 (SRO Elphinstone MS (SP1/2), no.70,71).

¹⁴¹ 11 May (Reg. Supp. 2524, f.194; Reg. Vat. 1634, f.170-170^v).

¹⁴² 6 June (RSS, iii, no.830). See RSS, v. Introd. p.iv, n, where it is incorrectly stated that the gift preceded Keith's provision.

that the commend of the monastery should be granted to Keith for life, rather than for the single year originally granted.¹⁴³ Arran did take the opportunity to secure some financial benefit for his family in this case. On 17 August 1545, the crown granted the temporalities to Master John Hamilton, the Master of Works.¹⁴⁴ It was over a year later that Keith himself received the temporalities so, during that time, the temporal revenues of the abbey were being directed into Hamilton coffers.¹⁴⁵ Having twice obtained prorogation of his need to take the habit, he finally ceded the abbacy to his nephew, Robert Keith 'junior', the fourteen year old son of the Earl Marischal, towards the end of 1549. He retained, however, all the fruits of the abbacy and the right of regress in the event of a vacancy. This was clearly an action taken to secure the abbacy in the hands of the Keith family.¹⁴⁶

The priory of Ardchattan, which Duncan Macarthur had successfully held, with the support of James V, against the claims of John Campbell in the 1530s, eventually did fall to Campbell in 1545. In April of the previous year, a royal letter asked Paul III to appoint Campbell as Macarthur's successor, stating that this was at Duncan's request.¹⁴⁷ Macarthur died sometime during the next few months,

¹⁴³ LP Henry VIII, xx, pt.1, no.185,186. In fact the bull had granted it to him for 2 years. Arran also tried to rid the abbacy of the various smaller pensions on its fruits, 23 March (LP Henry VIII, xx, pt.1, no.413).

¹⁴⁴ RSS, iii, nos.185,186.

¹⁴⁵ 29 Sept. 1546 (RSS, iii, no.1917). Keith did not promise to pay the common services until 12 July 1546 (PRO 31/9-33/127-8).

¹⁴⁶ Prorogations 6 Mar. 1546, 29 Aug. 1547 (Reg. Supp. 2587, f.175v; Reg. supp. 2619, f.132v); Cession in favour of Robert Keith junior, 22 Oct.1549 (Reg. Supp. 2677, f.24^v-25^v).

¹⁴⁷ 18 April 1544 (LP Henry VIII, vol.xix, pt.1, no.350); There were also further letters on 15 May, 25 September (from the Dowager naming Campbell, presumably in error, James) and 15 October (SRO Elphinstone MS (SP1/2), f.50, no.101, no.103, f.44^v no.84,85).

because Arran wrote to Cardinal Beaton, in his capacity as legate, on 5 February 1545 asking him to appoint Campbell 'an honourable and honest youth' to the priory.¹⁴⁸ Later that month, Campbell himself petitioned the pope for provision *in commendam* because of the death of Macarthur 'in a reserved month', in a supplication which indicated that he was the son of John Campbell of Calder. The statement regarding the timing of Macarthur's death suggests that the house may have been regarded as non-consistorial, and therefore unaffected by the Indult.¹⁴⁹ Royal interest, which was extensive, must therefore have been in supporting the family of a local magnate. Campbell subsequently became bishop of the Isles and his family held the priory until well after the Reformation.¹⁵⁰

If during Arran's ascendancy, the Stewarts had to take second place to the Hamiltons, one branch of the family was still able to benefit from at least one of these benefices with which the governor was concerned. In January 1543, Richard Abercrombie, abbot of Inchcolm, appointed procurators to resign the abbacy in the hands of the pope in favour of James Stewart, nephew of Andrew, Lord Ochiltree. Abercrombie was to retain all the fruits and revenues with the exception of a pension of £100 Scots to Stewart, the title of the office and the right to obtain regress to the abbacy if James died or resigned. The document makes it clear that, while Abercrombie's motive was primarily to obtain the protection of Stewart and his father and uncle in defending the abbey against English depredations and in maintaining its buildings, the Stewarts saw the transaction as

¹⁴⁸ SRO Elphinstone MS (SP1/2) f.45, no.86,87.

¹⁴⁹ 27 Feb. 1545 (Reg. Supp. 2534, f.298-299^v).

¹⁵⁰ Fasti, 205; Cowan and Easson, Medieval Religious Houses, Scotland, 83-4.

securing the revenues of the abbacy for their family in the long-term if not necessarily immediately.¹⁵¹ Within a few months in fact, James Stewart's father, James, the younger brother of Lord Ochiltree, obtained a lease of the lands of Beath from abbot Richard, thus beginning the secularization of the abbey's revenues in favour of the Stewarts.¹⁵² On 31 July 1543, Arran supported the resignation by writing to the pope with the request that Richard, who was "oppressed with age and weakness of mind" be allowed to resign in favour of James.¹⁵³ James was made a canon of Inchcolm and duly provided as commendator on the terms agreed on 13 August 1544, when he was described as being of royal birth.¹⁵⁴ James was clearly not overkeen to play an active part in the administration of his new charge for, in September 1546, he sought prorogation of the ruling that he should take the monastic habit for a further year.¹⁵⁵ In fact, Richard remained abbot in practice until his death in 1549, suggesting that Arran's description of the state of his mind in 1544 was somewhat exaggerated. The Stewart policy was quite successful in that the abbey remained in the family's hands until it was erected into a temporal lordship in 1609.¹⁵⁶

By and large, however, Arran's interest in making nominations to monastic benefices was essentially orientated towards his own family and followers and, in consequence, members of his own

¹⁵¹ Inchcolm Chrs., Introduction, xxxvi-xxxviii, no.LX, Appendix, 194-202. LP Henry VIII, xix, pt.2, no.85.

¹⁵² 27 April 1543 (RMS, ii, no.2915).

¹⁵³ LP Henry VIII, xix, pt.1, no.976.

¹⁵⁴ Reg. Vat. 1622, f.105-107^v; PRO 31/10-15/152; Acta Misc. 32, f.183-183^v; Inchcolm Chrs., LXI, LXII. On 3 Feb. 1546, Stewart promised to pay the common services (PRO 31/9-33/124-5).

¹⁵⁵ 13 Sept. (Reg. Supp. 2582, f.211).

¹⁵⁶ Cowan and Easson, Medieval Religious Houses, Scotland, 91.

household also benefited from his patronage. John Elphinstone, a canon of Aberdeen and described as Arran's servant, was nominated for the commendatorship of Monymusk on 5 May 1543 by the governor, who claimed that he had previously written on the subject.¹⁵⁷ It is worth noting that this priory, technically a dependent priory of St. Andrews, was not a consistorial benefice and paid annates rather than common services. It did not therefore really fall within the terms of the Indult. In fact, a petition had already been registered three days previously, when John Fairlie, the prior, asked that Elphinstone be given as his coadjutor on account of the frailty of his health, stating that the request had the support both of the Queen and the governor,¹⁵⁸ and Elphinstone had duly been given papal provision.¹⁵⁹ Despite delaying taking the habit for four years,¹⁶⁰ and an isolated attempt by Duncan Sviles to oust him in 1546,¹⁶¹ Elphinstone remained at the priory until his death in 1562.¹⁶²

Not all monastic appointments attracted the attention of the governor. The abbey of Dryburgh, for example, which had been the subject of much dispute during James V's reign, was transferred within the family of Lord Erskine, without any involvement from Arran. On 20 December 1546, Thomas Erskine petitioned to be allowed

¹⁵⁷ LP Henry VIII, xviii, pt.1, no.504.

¹⁵⁸ 2 May (Reg. Supp. 2492, f.39^V-40).

¹⁵⁹ Reg. Vat. 1585, f.13-18.

¹⁶⁰ On 18 Dec. 1545, Elphinstone asked for prorogation of the ruling that he should take the habit for a further two years: he may well never have done so (Reg. Supp. 2264, f.127-127^V).

¹⁶¹ On 14 May, Sviles claimed that the benefice had devolved to the apostolic see and sought provision (Reg. Supp. 2572, f.184^V-185).

¹⁶² Cowan and Easson, Medieval Religious Houses, Scotland, 94.

to cede the abbacy in favour of his brother, John, while retaining a pension of £40 Scots on the fruits of the commendatorship.¹⁶³ John actually became commendator after the battle of Pinkie in September 1547, when Thomas became Master of Erskine.¹⁶⁴

Another example of such an appointment is provided by the abbacy of Kinloss. Robert Reid, bishop of Orkney and commendator of the abbey of Kinloss, resigned the latter benefice in favour of his nephew, Walter, in August 1547. Walter, who was thirteen years old, was provided *in commendam*, while Robert retained all the "fruits, teinds, lands, possessions, and the teinds of all the churches united to the monastery with the expressed consent of the convent" and also the right of access and ingress if the abbacy fell vacant.¹⁶⁵ In both these cases, it will be noted, the appointments took the form of transfers, or at least nominal transfers, of the rule of the abbeys within families. Although the crown was sometimes involved in appointments of this kind, it seems likely that such transfers were not uncommonly made without royal intervention, even when the houses were consistorial benefices.

It is clear that Arran was generally able to assert his authority in appointments when he really wished to do so. In some cases, however, the power of other noble families was the dominant factor. There are also at least a few examples of abbacies being filled without apparent reference to the governor. Disputes over the headships of religious houses were also not uncommon during this

¹⁶³ Reg. Supp. 2676, f.298; Reg. Supp. 2674, f.294^v.

¹⁶⁴ Mary of Lorraine Correspondence, 220n. Robert Wauchope made one further attempt to wrest the abbey from the Erskines in 1549, but with no success (see above, p.60).

¹⁶⁵ 28 Aug. (Reg. Supp. 2619, f.262-262^v). Walter held the commendatorship till 1583 (Cowan and Easson, Medieval Religious Houses, Scotland, 76).

period, and might be expected to attract the involvement of the crown. The outcome of the various struggles which did arise over abbacies and priories is an interesting measure of the scale of control exercised by the governor over such appointments as compared with that of James V.

One such dispute, however, does not seem to have involved the earl of Arran in any significant way. This was the long drawn-out struggle between two noble families which took place over the abbey of Glenluce. In 1547, an arrangement was made between Walter Mallen, the abbot, and James Gordon, one of the Gordons of Lochinvar, in order to ensure succession to that family. On 5 December, Gordon was provided to the abbacy, while Walter retained the title of abbot, administration of its goods, fruits, revenues and property, a vote in the chapter and jurisdiction over the monks.¹⁶⁶ This was, in fact, simply one stage in the long-running dispute between the Gordons and the Kennedy earls of Cassillis. Kennedy had previously expelled Mallen in 1544 and, during the following two years, the abbey was occupied by both his followers and the Gordons. It is possible that Walter may have tried to play off Lochinvar against Cassillis. The struggle for the effective possession of the abbey continued until well after 1560.¹⁶⁷

In some of these disputes, Arran's own nominations appear to have been unsuccessful. One such case is the dispute over the abbacy of Fearn after the death of Robert Cairncross, then

¹⁶⁶ Reg. Vat. 1698, f.125-129^v; Acta Misc. 33, f.245; Pension to Walter (Reg. Vat. 1698, f.179-181^v).

¹⁶⁷ For this dispute, see Cowan and Easson, Medieval Religious Houses, Scotland, 75; Wigtownshire Chrs. 50-55. Arran was only briefly involved in this dispute, when both sides agreed that the abbey should be delivered to William Hamilton of Sanquhar while arbitration took place; if agreement was not reached, the case was to go to the Governor. Nothing came of this.

commendator of the abbey, in November 1545. Arran had already written 2 years previously in support of a cession by Robert in favour of James Cairncross, his nephew by his natural brother.¹⁶⁸ Robert did indeed cede the abbacy in favour of James in August 1545, while retaining all the fruits and the right of regress.¹⁶⁹ James Cairncross's position, however, was not entirely safe. On 25 June 1547, Nicholas Ross, claiming that he had been elected by the convent and was in possession, asked for a commission to hear his dispute with James Cairncross.¹⁷⁰ There is no evidence of what happened at that time but, in 1554, Ross, who was also provost of the collegiate church of Tain, was noted as contracting with James Thornton to obtain the bulls of provision *in commendam* and send them to Scotland.¹⁷¹ In this case, the fact that he was probably living in physical proximity to the benefice appears to have been of practical benefit to Ross.

The dispute over the ministry of Scotlandwell, a small Trinitarian house, provides a second illustration of failure on Arran's part to secure possession for his nominee. James V had petitioned for the provision of Walter Moncur on 4 August 1542.¹⁷² In January of the following year, however, Archibald Arnot was presented 'on papal direction'.¹⁷³ This appears to date back to a resignation made by Robert Arnot in 1541.¹⁷⁴ Arnot however seems to have fallen foul

¹⁶⁸ 5 July 1543 (SRO Elphinstone MS (SP1/2), f.34^v, no.61).

¹⁶⁹ 16 Aug. (Reg. Supp. 2555, f.161^v-162; Provision (Reg. Lat. 1682, f.81-84^v).

¹⁷⁰ Reg. Supp. 2609, f.11.

¹⁷¹ April 28 (ADCP, 633).

¹⁷² James V Letters, 443. There is no record of such a provision.

¹⁷³ 8 Jan. (RSS, iii, no.17). No bull survives to support the claim of papal interest.

¹⁷⁴ 8 March (PRO 31/9-33/187-8).

of the provincial of the order in Scotland, Robert Cunningham, minister of Failford, who was given power by the crown to dispose of the ministry on 2 May 1543.¹⁷⁵ The following month, Cunningham claimed that Walter Arnot of that Ilk and his son, friar Archibald, with other sons, had intruded themselves on the strength of a decree for Archibald's restoration from the sheriff of Fife, evicted the friars and disrupted the service of God. The Lords of Council, on 17 July, ordered Walter and his family to receive Cunningham and accept his authority in the convent.¹⁷⁶ Archibald Arnot petitioned Paul III for a commission to hear the dispute in March 1545, claiming that Cunningham had inserted a William Moncur into the ministry.¹⁷⁷ There is no further evidence of papal involvement in this dispute. The struggle, however, gave rise to much litigation before the Lords of Council who, in general, appear to have supported Moncur, whilst Arnot remained in possession.¹⁷⁸ When Walter Moncur died in 1546, Robert Hamilton and subsequently Bernard Hamilton, brother to William Hamilton of Sanquhar, were presented to the ministry by the crown.¹⁷⁹ In Council, at the end of 1546, it was claimed that Arnot was depriving the crown of patronage and that the presentation of Robert Hamilton was made by the Queen on the advice of the governor.¹⁸⁰ Given the fact that Arnot had appealed to the Pope for a commission, the apparent lack of involvement by Paul III in the

¹⁷⁵ RSS, iii, no.271.

¹⁷⁶ 17 July (ADCP, 531).

¹⁷⁷ 17 March (Reg. Supp. 2507, f.46). William must be an error for Walter.

¹⁷⁸ 29 Mar. 1545 (ADCP, 538); 8 April 1546 (ADCP, 545); 25 August ADCP, 558).

¹⁷⁹ 30 September 1546 (RSS, iii, no.1925).

¹⁸⁰ 7,16 December (ADCP, 560).

later stages of the dispute perhaps appears strange. It is, however, difficult to know what stress to lay on this as an indication of the waning authority of the papacy since it appears that, notwithstanding the disapproval of both the governor and the Lords in Council, and the presentation of two Hamiltons in succession, final success was determined by the principle that 'possession is nine-tenths of the law'. The house remained in the hands of the Arnots until 1606.¹⁸¹ In this case, the authority of the crown was no more effective than that of the papacy.

In one other case, of much greater significance, Arran's nomination was also not successful. The Beaton family was able to retain the abbacy of Arbroath despite the initial opposition of Arran after David Beaton's assassination in 1546. David had already taken action to secure the succession by resigning the commendatorship in favour of his nephew, James, on 22 December 1545, retaining all the revenues and fruits, all authority in the benefice and the right of regress if James should resign or die.¹⁸² James was then provided by the pope in March of the following year, the bull stating that the earl of Arran had petitioned on Beaton's behalf.¹⁸³ Two letters from procurators in Rome acting on Beaton's behalf make it clear that, on David's death, Arran had however attempted to obtain the abbacy for George Douglas, son of the earl of Angus.¹⁸⁴ One of these implied that the pope had commented on Arran's rapid change of mind. It is clear from the letter from William Walker to Beaton that the pope

¹⁸¹ Cowan and Easson, Medieval Religious Houses, Scotland, 110.

¹⁸² PRO 31/9-33/181.

¹⁸³ 22 March 1546 (Reg. Vat. 1667, f.328^v-331).

¹⁸⁴ 17 Oct. 1546. Patrick Liddell to Secretary Paniter from Rome. (LP Henry VIII, xxi, pt.2, no.277); William Walker to James Beaton (ibid. no.279).

remained in favour of Beaton's appointment: "the pope answered that it was sped for you and he would not break justice." Walker also wisely suggested that Beaton should speed his finance to Rome for the bulls. Arran's turn-around had in fact been caused by the fear of the consequence if Angus's negotiations with England were successful: he felt it prudent therefore to promise the abbacy of Arbroath to the Douglasses.¹⁸⁵ Despite the fact that the Privy Council confirmed Douglas's appointment in December 1546,¹⁸⁶ James Beaton felt confident enough of his possession by the middle of the following year to promise to pay his common services for the abbey.¹⁸⁷ In August 1548, however, he was at the horn, his goods were escheated and granted to Angus and his brother.¹⁸⁸ According to an English spy, he was at the horn because he would not resign Arbroath in favour of Angus and accept the archbishopric of Glasgow in exchange.¹⁸⁹ Sir Thomas Palmer reported to Protector Somerset on 1 July 1548 that 'Angus has received the bulls of Arbroath' presumably made out in favour of his son and that James Beaton was to be compensated with a bishopric in France.¹⁹⁰ No such bulls, however, appear to have survived in the papal registers. Beaton, in fact, was fighting against his escheatment in April 1549, when he was still described as abbot of Arbroath.¹⁹¹ It appears as though he managed to remain in possession until his appointment to the

¹⁸⁵ Mary of Lorraine Correspondence, 324, n.1.

¹⁸⁶ 13 Dec. 1546 (LP Henry VIII, xxi, pt.2, no.544).

¹⁸⁷ 9 July 1547 (PRO 31/9-33/129).

¹⁸⁸ 12 August (RSS, iii, no.2902).

¹⁸⁹ Mary of Lorraine Correspondence, 324.

¹⁹⁰ Cal. State Papers Scot., vol.i, no.271.

¹⁹¹ 2 April (ADCE, 587).

archbishopric of Glasgow in 1551, despite the pressure the Angus faction was putting on Arran, particularly after March 1548 when Angus was negotiating with England.¹⁹² On Beaton's promotion to Glasgow, it was in fact John Hamilton, the second surviving son of the earl of Arran, who obtained the abbacy.¹⁹³ Although the Roman curia was involved at various stages of this dispute, the failure of Arran to obtain the appointment of Douglas after David Beaton's murder was not primarily the result of papal involvement. There were also special circumstances in this instance: the prestige of the Beaton family, the relative weakness of Arran compared with James V and, in all probability, some lack of enthusiasm on Arran's part for a cause which was certainly not his own. Arran's eventual success in obtaining the abbacy for his son in 1551 was essentially part of a compromise between Mary of Guise and himself, in which he withdrew his nomination to the archbishopric of Glasgow in favour of Beaton in return for the acquisition of Arbroath into the control of the Hamilton family.¹⁹⁴

The policy of Arran in respect of these appointments was similar to that he followed towards bishoprics. Basically, it was to secure the headship of a number of monastic houses for members of the Hamilton family, with a view both to the financial benefit and the influence which might be gained thereby. Because of his weaker position and the opposition to him as governor, he found it necessary, as with the bishoprics, to support the claims of other noble families, or to allow them to pursue their claims unhindered in certain cases. On several occasions, in addition, he had to give way

¹⁹² Mary of Lorraine Correspondence, 324, n.1.

¹⁹³ R.K.Hannay, 'Papal bulls', 25-32.

¹⁹⁴ See above, p.48-49.

in the face of opposition to the use of his authority. Almost certainly, the lack of unity within the government provided circumstances which were conducive to the growth of control by local families and challenges to royal authority.

During this period, the crown was involved in appointments not only to the elective benefices which came under the 1487 Indult, nor even simply to larger monastic houses, but also to several smaller houses. In some cases this may have been due to uncertainty about the precise status of the house in terms particularly of value; in others, the crown may have become involved as a result of internal disputes as happened at Ardchattan. A further reason for this considerable involvement, however, was financial: the need both to generate additional revenue and to keep as much money as possible within Scotland was a major plank of general policy, and also made distinctions of size meaningless in a period of falling money-values. The crown used monastic revenue to bolster the resources of the treasury and also, under Arran, to strengthen the finances and influence of his own family. The gift of a monastic benefice could also provide an income for government servants and would thus lessen the burden of supporting such officers from the central treasury. In line with this too, the crown tried to limit expenditure at Rome in the form of promotion taxes and litigation fees. The evidence of the passage of disputes to Rome indicates that neither James V nor Arran was successful in largely eliminating the flow of money to Rome in this form. In addition, the support of royal procurators at Rome, both Scottish and Italian, must have involved some financial outlay. Where success was greatest was in the maintenance of the principle of royal authority. In practice,

this authority was threatened on only a few occasions, and in only two of these - at Dryburgh and to some extent at Arbroath in 1546 - might the papal opposition be really regarded as dangerous. In the case of Dryburgh, the pope had no success at all; the thwarting of Arran's nomination to Arbroath owed little to papal authority and, in any case, was offset by the fact that the abbacy eventually went to one of Arran's sons as part of a compromise arrangement. Most disputes, however, originated in Scotland, and their very existence showed the need for vigilance by the crown in defending its rights under the Indult. At the same time, the crown did not always take a personal interest in nominations to such benefices and, on some occasions, a transfer was peacefully achieved without dispute and without the involvement of the king.

As far as the effects of monastic appointments are concerned, they indicate above all the increasing secularization of the church. Not only were the revenues of some houses being diverted to the royal treasury, but other religious houses were in effect becoming the 'property' of particular noble families, in some cases by royal gift, in others as a result of pressure from the family concerned. Thus, Dryburgh became the perquisite of the Erskine family, Whithorn of the Flemings, Paisley of the Hamiltons and Jedburgh of the Humes. This process was accelerated by the increasing number of tacks and leases of the fruits of monastic benefices made to laymen: leases of the fruits of Kelso, Kilwinning and Coldingham have been mentioned above. This development runs alongside the growth of feuing of monastic lands which was a further feature of this period.¹⁹⁵

This secularization partly explains why James V did not follow the example of his uncle and dissolve the monasteries. To some

¹⁹⁵ M.H.B.Sanderson, Scottish Rural Society, 67-75.

extent, he was already benefiting from them by nominating his sons to some of the richer monastic houses. Equally important is the fact that any attempt to dissolve the monasteries would have alienated noble families who were profiting either directly or by leases, and would probably have been ineffective since so much monastic revenue was in the hands of the nobility and, in some cases, of feuars.¹⁹⁶

This examination of the process of appointments to the monastic houses during the 1530s and 1540s has indicated both that the authority of the crown was usually strong enough to maintain royal rights of nomination successfully and that, when Paul III did try to exercise papal authority, he met with little success. Nevertheless, there was opposition to royal nominees on occasion from within Scotland, and disputes over such houses were not uncommon. The crown therefore had to work hard to maintain the rights established over the years. What is also significant is that, in doing so, both James V and Arran clearly stretched these rights effectively beyond their limits in that they extended the right of nomination to non-consistorial houses. How far the practice of extending these rights beyond the consistorial benefices was carried can be ascertained to some degree by an examination of appointments to the elective benefices and the other dignities in the cathedral chapters.

¹⁹⁶ Donaldson, The Scottish Reformation, 39-40.

CHAPTER 4

THE CATHEDRAL DIGNITIES

I

The Indult of 1487 had been concerned only with consistorial benefices, but James IV's government regarded the 'privilege of the crown' codified in that agreement as covering all elective benefices.¹ By 1531, James V was writing to Clement VII that 'cathedral deaneries, like bishoprics, abbacies and priories and other elective benefices, have been conferred by the pope according to the royal privilege enjoyed by James and his predecessors';² that James's statement was true at least for the pontificate of Leo X has been confirmed by an examination of the records of that pontiff.³ By James V's reign, therefore, the crown was treating appointments to deaneries in exactly the same manner as those to bishoprics and religious houses, and the formal extension of royal power enshrined in the bull of March 1535 applied to these dignities as it did to the greater elective benefices.

From the preceding examination of the appointments to the consistorial benefices, it is clear that, even when the papacy challenged royal appointments in any way, it met with little or no success. Not surprisingly, the Vatican records relating to Scottish deaneries suggest that this is also true of these benefices. There is only one case of opposition to an appointment which appears to have originated from the pope. On 31 July 1540, James wrote to Master

¹ See above, 21.

² James V Letters, 193.

³ These records have been examined by Mr T.Smyth, to whom I am grateful for this information.

George Hay, a royal procurator at Rome, telling him to prevent the papal provision of Robert Wauchope to the deanery of Aberdeen, to which the king had already 'providit' Robert Erskine, the secretary's brother.⁴ Such a provision is understandable when seen in the context of the papacy's concern for Wauchope's advancement;⁵ no evidence of provision has, however, been traced. The following day, James actually recommended Erskine for the deanery in a letter to the pope.⁶ This was apparently a sufficient warning to the pope, since no more was heard of Wauchope. Early in November, the royal nomination was followed by a petition from Erskine himself and he was duly given papal provision.⁷ The attempt to provide Wauchope is consistent with Paul III's belief that James V would be willing to allow Wauchope to obtain financial support from Scottish benefices while he was unable to uplift the revenue from the archbishopric of Armagh.⁸ James, however, was clearly no more sympathetic over the deanery than he had been with regard to Dryburgh, and this challenge to royal wishes was short-lived.

Although this is the only known case of an attempt by the pope to provide a candidate to a deanery against royal wishes, there were two cases of internal opposition to James V's appointments. In the first of these, the challenge came from the duke of Albany's household. When Robert Forman, dean of Glasgow, died in November

⁴ James V Letters, 406. Erskine appears to have been transferred to free the provostship of Trinity for the king's almoner, George Clapperton.

⁵ See above, p.57-60.

⁶ James V Letters, 406-7; Fasti, 9.

⁷ 1 September 1540 (Reg. Supp. 2392, f.154^V-155; Reg. Supp. 2391, f.141-141^V); Provision (Reg. Lat. 1702, f.266^V-267^V).

⁸ See above, p.58.

1530,⁹ James's first intention was to appoint Thomas Erskine, son of Lord Erskine; on the grounds however that he was too young, the king then nominated Alexander Erskine, uncle of Lord Erskine, instead at the beginning of December.¹⁰ By Christmas, he had again changed his mind and his nominee was William Stewart, provost of Lincluden and the royal treasurer.¹¹ Aware of Forman's status as 'apostolicus,' James gave what was probably intended as a warning that members of the curia should not try to obtain the benefice. Having entrusted Albany with some responsibility in defending royal privilege in this matter, he found that the opposition to his appointment came not from Rome but from his own representative. The following year, James Lamb, Albany's secretary, was said to be seeking the benefice, presumably with the support of the Duke. James V wrote to Clement in June 1531, protesting about this as a breach of crown privilege.¹² On 17 July however, despite the royal protest, Lamb received papal confirmation.¹³ In practice, however, this was of no value: Stewart had already been elected and confirmed by Archbishop Dunbar,¹⁴ and retained the benefice until his nomination to Aberdeen as bishop in 1532, without apparently seeking papal confirmation.

A further unsuccessful attempt to overturn a royal nomination was made after James had presented Malcolm Fleming, son of John, Earl of Wigtown to the deanery of Dunblane on 20 November 1536,

⁹ Fasti, 155.

¹⁰ 2 Dec. 1530 (James V Letters, 184).

¹¹ 25 Dec. 1530 (James V Letters, 185).

¹² 30 June 1531 (James V Letters, 192-3).

¹³ PRO 31/9-2/s.d.

¹⁴ St. A. Form., i, 340-343.

stating simply that the dignity was at royal presentation.¹⁵ Earlier that month, however, following the death of William Drummond in September, a petition for papal provision had been made by Thomas McCann.¹⁶ Nothing apparently came of this but, in January 1537, another litigant, George Wawane, appeared, claiming that he had been elected by a majority of the chapter and confirmed by the ordinary, and sought a new provision from the pope.¹⁷ In the face of this challenge, Fleming himself sought and obtained provision, in April, claiming that Drummond had died 'last January or in another reserved month.'¹⁸ He held the benefice until his provision to the priory of Whithorn in 1539.¹⁹ No evidence has been found to link the unsuccessful claimants with the Roman curia and it seems reasonable to assume that they were local rivals. If the supplication is to be believed, Wawane's claim represented a challenge by the chapter and the bishop to the appointment of a royal nominee, which in the final analysis was unsuccessful.

It appears from this that royal nominees were always successful in holding off challenges from other claimants, since none of these attempts to thwart royal appointments came to anything. Who then obtained cathedral deaneries during James V's reign? It is clear that royal officials and their families were among those to

¹⁵ RSS, ii, no.2191. The link with the earl of Wigtown is described in Scots Peerage, viii, 537.

¹⁶ 6 Nov. (Reg. Supp. 2230, f.203).

¹⁷ 15 Jan. (Reg. Supp. 2235, f.230-230^v).

¹⁸ 13 April (Reg. Supp. 2240, f.155-155^v). Provision (Reg. Vat. 1492, f.14^v-16). The information must have taken some time to reach Scotland for a further royal letter was sent in support of Fleming on 26 June (James V Letters, 332). The invocation of the pope's powers of reservation was unusual in the context of deaneries, as elective benefices, and may have simply been introduced to further strengthen Fleming's case.

¹⁹ Fasti, 82.

benefit from the exercise of royal privilege. Two of the cases so far considered illustrate the point well: William Stewart who obtained the deanery of Glasgow in 1530 became royal treasurer in the same year; Robert Erskine who became dean of Aberdeen was the brother of the royal secretary, Thomas Erskine.

Stewart's promotion to the bishopric of Aberdeen in 1532 gave a further opportunity to provide for another official of the crown by using the deanery of Glasgow. James V nominated James Scrymgeour, his almoner, to the pope on 22 March 1532²⁰ and Scrymgeour was installed by deputy after having received papal provision.²¹ After Scrymgeour's death in the following year, however, James did not nominate another royal servant to this benefice, in contrast to his previous practice. His choice on this occasion was George Lockhart, Doctor of Theology of the University of Paris, who was recommended on 13 October 1533 in a letter which suggests that James Lamb, who had obtained papal confirmation in opposition to Stewart in 1530, was still seeking the benefice.²² Lockhart, however, having been elected by the chapter two days before his royal recommendation,²³ was confident enough of the security of his position to promise the annates of provision on 17 March 1534.²⁴ Whether the election by the chapter was the result of royal nomination or the king had simply accepted the choice of the chapter is not clear. Family connections may provide a clue to the reasons for his appointment. The Lockharts were related by marriage to the Stewarts of Minto, to

²⁰ James V Letters, 218; Fasti, 155.

²¹ St. A. Form., ii, 75-78. No bull has, however, yet been identified amongst papal records.

²² James V Letters, 249; Fasti, 156.

²³ Fasti, 156.

²⁴ PRO 31/9-32/272-3.

which family William Stewart, his predecessor at one remove and a royal adviser, belonged.²⁵

The use of cathedral deaneries to provide salaries for royal officials was to be expected, given the control established by the crown over these elective benefices since 1487. Equally natural was the way in which the royal family itself benefited from James V's control of patronage. Patrick Stewart, son of Alexander Stewart, bishop of Moray and an illegitimate son of the duke of Albany,²⁶ was nominated by James as coadjutor to the elderly dean of Brechin, Henry White, in February 1536.²⁷ On 27 May, the bull of provision as coadjutor was issued, and Stewart promised the annates of the benefice as White's coadjutor on 11 November.²⁸ Despite White's age, he lived until 1541, but Patrick Stewart's succession was secured and he retained the benefice at least until 1542 and probably several years longer.²⁹ In this case, the royal connection was perhaps not the only cause of Stewart's promotion. Alexander Stewart had himself been dean of Brechin before his promotion to the bishopric of Moray in 1529 and retained the deanery until 1534, and White was also a canon of Moray.³⁰ The family had a recent interest in the particular benefice and perhaps a connection with its holder in something of a Moray/Brechin axis.

²⁵ I.A.Muirhead, 'M.Robert Lockhart', *IR*, xxii (1971), 87-100.

²⁶ Dowden, *Bishops*, 169.

²⁷ 22 Feb. (*James V Letters*, 313).

²⁸ Reg. Vat. 1481, f.52-55^v; PRO 31/9-33/46.

²⁹ *Fasti*, 45.

³⁰ *Fasti*, 44.

James's nominations to deaneries thus benefited both his own family and royal officials and their families. Under the earl of Arran, something of the same pattern prevailed. Most notably, the Hamiltons benefited as Patrick Stewart had done under James V. The deanery of Glasgow, for example, was resigned by George Lockhart in favour of Alexander Hamilton on 9 October 1546.³¹ Alexander made two further petitions for provision in January and August of the following year:³² the second of the two petitions, following Lockhart's death, suggests that the resignation may in this case have been a device to secure Hamilton's succession to a benefice held by an elderly or ill incumbent. Hamilton had himself, however, died before 16 December 1547, when Gavin Hamilton, brother of the earl of Arran, sought the deanery on the grounds of Alexander's death, and was given provision.³³ Gavin Hamilton did not hold the deanery for long, since crown permission was granted in 1550 for an exchange with Henry Sinclair, abbot of Kilwinning and, although Hamilton was described in 1551 as dean, it seems likely that an exchange took place peaceably.³⁴ Although no formal evidence of support from the governor has been identified, it appears probable that the appointments of the two Hamiltons had his approval.

There is no such doubt about Arran's wishes regarding the deanery of Brechin, a case which also illustrates the exercise of

³¹ Reg. Supp. 2588, f.62^v.

³² 26 Jan. (Reg. Supp. 2610, f.199-199^v); 7 Aug. (Reg. Supp. 2610, f.196).

³³ Reg. Supp. 2624, f.91-91^v. Provision (Reg. Vat. 1678, f.123^v-124^v); Promised annates on 16 July 1548 (PRO 31/9-33/240).

³⁴ RSS, iv, no.644; Fasti, 156.

Beaton's powers as legate *a latere*. On 13 April 1544, a royal letter asked Beaton to confer the deanery, which was said to be vacant by the death of Patrick Stewart, on James Hamilton, natural brother of the earl of Arran.³⁵ Patrick Stewart was not in fact dead at this date and it is possible that he was resisting a new appointment. One year later, a second royal letter addressed to the Cardinal of Carpi again gave support to Hamilton's case.³⁶ It was, however, Beaton, acting in his legatine capacity, who provided James Hamilton to the deanery later that year, and Hamilton retained possession of the dignity until at least 1554.³⁷

The interest shown by James V in appointments to deaneries appears, however, to have been missing during Arran's governorship in several cases. In the first of these, the deanery of Moray, this may have been due partly to the firm hold already exercised over the dignity by the Dunbar family, by whom it had been held since 1487.³⁸ Alexander Dunbar senior apparently resigned the benefice in favour of David Dunbar in June 1547,³⁹ although there is in fact a supplication dating from 1543 when David was already seeking provision on the grounds that Alexander had resigned in his favour.⁴⁰ David was Alexander's nephew by his natural brother: the

³⁵ SRO Elphinstone MS (SP1/2), f.37, no.69.

³⁶ 28 April 1545 (LP Henry VIII, vol.xx, pt.1, no.601).

³⁷ R.K.Hannay, 'Papal bulls', 37; Sanderson, Cardinal of Scotland, 118; Fasti, 45.

³⁸ For background, see Fasti, 221.

³⁹ 23 June (Reg. Supp. 2612, f.7^v); St. A. Form., ii, 194-7.

⁴⁰ 19 May (Reg. Supp. 2486, 50-50^v). This earlier petition is essentially concerned with the technical accuracy of the resignation and in no way suggests a dispute between the two Dunbars. On 6 July 1543, Mary Queen of Scots confirmed the faculty granted by James V to Alexander Dunbar to resign the deanery. (SRO Elphinstone MS (SP1/2), f.34^v-35, no.62,63).

strength of the family ties in the benefice is indicated by the fact that Alexander was one of the executors of the will of Gavin Dunbar, his predecessor, who subsequently became archbishop of Glasgow.⁴¹ A few months later, David ceded the deanery back to Alexander who received papal provision.⁴² This cession of the deanery to Alexander by David, after Alexander had already resigned in David's favour, is an example of a practice which was becoming common at this time. As has been outlined earlier, *resignatio in favorem* had begun to be used by benefice holders in the late fifteenth century: in some cases, it enabled the incumbent to transfer his title whilst often reserving the fruits for life, so that the succession was already secured and hopefully litigation was avoided.⁴³ The effect of this device on the relations of crown and papacy have already been briefly mentioned.⁴⁴ Now such resignations were however being carried a stage further. Cession in this case was made back to Alexander, with access assured for David if Alexander died or resigned his possession. The need for this 'retrocession' is not really clear. It would not appear to strengthen substantially the rights of either the original holder, except insofar as he retained the title to the dignity, or his intending successor in the benefice; nor in this case does any obvious reason why such strengthening should have been necessary, such as the existence of a challenger, present itself. Whatever the

⁴¹ ADCP, 566.

⁴² 20 September 1547 (Reg. Supp. 2618, f.145); Provision (Reg. Lat. 1786, f.40-43); On 12 January 1548, Alexander obliged for the annates of provision (PRO 31/9-33/325-6) and David for the annates of regress (PRO 31/9-33/236), contra Watt, Fasti, 221).

⁴³ R.K.Hannay, The Scottish Church and the Papacy, 10. Hannay's interpretation of the thinking behind the device does not however adequately explain all the circumstances in which it appears to have been used.

⁴⁴ See above, p.22.

cause, it was an extension of the *resignatio in favorem* device which was used by several holders of cathedral dignities, as will be shown.

The crown was also not involved at all when James Macgregor was succeeded as dean of Argyll by Nicholas Campbell. Macgregor had held the benefice since 1514 and apparently died in possession in 1551. Campbell, however, appeared as dean in 1542 and 1546, and eventually held it until 1566.⁴⁵ As Macgregor was possibly quite elderly in 1542, the overlap may represent an arrangement to secure the succession; on the other hand, it is possible that the dignity was in dispute between the two men, in which case the lack of crown interest is more unusual.

One appointment to a deanery was made with only momentary crown involvement in 1545. In the middle of the previous year, David Haliburton, who was probably already succentor of the cathedral at Fortrose, was presented to the pope for the deanery of Ross, when it was said to be vacant by the death of Paul Fraser, whilst a pension was reserved for the chief royal secretary, David Paniter.⁴⁶ This seems to have had no effect whatsoever, and indeed Fraser was not dead. In early 1545, Fraser, who had held the deanery of Ross from 1520, retired on a pension and Kentigern Monypenny was promoted from the archdeaconry to hold the major benefice.⁴⁷ This transaction appears to have been an amicable transfer of possession from an incumbent who may have been fairly elderly to a younger colleague, and although it must have involved some administrative processes, no cession or confirmation of a

⁴⁵ Fasti, 31.

⁴⁶ 1 July 1544 (SRO Elphinstone MS (SP1/2) f.38, no.52). This may have been a reflection of the conflict within the government at the time.

⁴⁷ Fasti, 274.

pension nor of any papal response to the earlier royal request has been traced in curial records.

The almost complete absence of crown involvement in these appointments may be traced to two factors. The first may have been a lack of opposition to the nominees from Arran or elsewhere which might have caused him to invoke the 'privilege of the crown' to secure the appointment of an acceptable holder. In some cases, the choice of the chapter must have been a candidate to whom no exception could reasonably be taken. The other, and perhaps more important, factor was the comparative remoteness of the dioceses concerned. It is also significant that, in the majority of these cases, there is also no evidence of contact with Rome in connection with the appointments. It seems to be the case that candidates for the deaneries of these remoter dioceses were less inclined than their counterparts in central Scotland to seek either royal or papal approval for their appointment.

The earl of Arran, then, had fewer problems in obtaining deaneries for his candidates when he wished to do so than did James V, who had to fight off three challenges to his authority. At the same time, it is clear that the governor, for whatever reason, also appears to have shown less interest in these vacancies which did occur.

The evidence for appointments to deaneries indicates that, in the context of royal and papal claims, James's statement in 1531 that the Indult covered deaneries as well as consistorial benefices was successfully vindicated in practice. On the whole, the majority of deaneries were filled without opposition. There was nevertheless still scope for papal intervention or litigation by other claimants, and the

deaneries of Aberdeen, Glasgow and Dunblane did indeed suffer in this way. Although the prime mover in the first of these cases appears to have been the pope, there is little evidence that the papacy was greatly involved in what were otherwise essentially local disputes. Where the crown wished to secure the appointment of its own nominees, too, it was able to do so even in the face of opposition from within Scotland as well as without.

II

The treatment of deaneries in this way had been achieved by stretching the conditions of the 1487 Indult but, by James's own admission, the concessions made there to the crown did not extend to other cathedral dignities, which were non-elective and therefore subject to the general rules of reservation. This did provide the papacy with at least the authority in law to make its own provisions to these lesser dignities in certain circumstances. There is clear evidence that it did indeed seek to do so on two occasions, as it had tried to do with the deanery of Aberdeen.⁴⁸ In 1529, after the death of Thomas Nudry, precentor of Ross, for example, a cardinal with powers from the pope provided Sixtus Zucchellus, secretary to the Cardinal of Ancona, for whom the popes seem to have been particularly anxious to obtain a major Scottish benefice, to the supposedly vacant dignity.⁴⁹ It seems unlikely that he ever obtained the benefice, for it was already in the possession of Alexander Turing, who had received it after Nudry's resignation in 1526, and retained it until he became provost of Methven in 1532.⁵⁰ The

⁴⁸ See above, p.101.

⁴⁹ 3 Sept. 1529 (PRO 31/9-32/135-6).

⁵⁰ Fasti, 276.

Turing family came from Foveran in Aberdeenshire and were likely to be able to retain a benefice in the north of Scotland against competition of this kind.⁵¹

A second attempt to provide Zucchellus at the same time to the archdeaconry of Moray on Nudry's death met with no more success.⁵² On this occasion, he was opposed by James Douglas, who had been given royal presentation and in whose cause, James V wrote to Clement VII on 1 February 1530, emphasizing the financial drain on the country's resources caused by such competition and hinting strongly at more forceful action if the case was not settled satisfactorily.⁵³ In fact, Douglas kept possession of the benefice until he resigned in favour of John Bellenden in 1533, and continued to hold the fruits and the right of regress to the dignity for some time thereafter.⁵⁴

These two attempts to grant these dignities to Zucchellus may have been motivated specifically by a desire on the pope's part to grant tangible favours to the Cardinal of Ancona. As with the consistorial benefices, however, papal efforts had for some time been directed more at the financial benefits which might be obtained from the system of reservation. This concern can be seen on at least one occasion, namely the attempt by the pope to obtain a pension of 80 ducats on the archdeaconry of Lothian for John Baptista Casalius in 1532. James protested vigorously against this, claiming that no holder of the dignity had consented to the pension, although this

⁵¹ For the Turing family, see W. Temple, Thanage of Fermartyn (Aberdeen, 1894), 565-71.

⁵² Fasti, 241-2.

⁵³ James V Letters, 167-8.

⁵⁴ 27 Aug. 1533 (PRO 31/9-32/267-8); see Bellenden, Chronicles, ii, 427-8.

was probably untrue, and also on the standard grounds that the wealth of the realm would be exhausted by the export of money if he allowed this sort of transaction.⁵⁵ There is no further notice of this case, and it appears likely that the dignity remained free from any such pension.

Although royal rights under the Indult and its successor bulls did not stretch beyond the deaneries, the evidence suggests that the crown continued to take an interest in appointments to these lesser dignities. To a large extent, this involvement stemmed from the concession made in 1450 by the Scottish bishops when they acknowledged the crown's right to present to benefices in ecclesiastical patronage during the vacancy of a see,⁵⁶ but this was not the sole cause of royal involvement. Whatever the reason, both James V and Arran put forward nominations for several of these benefices. In some cases, these went unchallenged, but in others there were disputes arising from alternative nominations.

One unopposed nomination was that of Thomas Erskine to the chancellorship of Glasgow in June 1532, the intention being that he would cede the benefice to John Reid, provost of Semple 'with reservation to Erskine of regress by demission of Reid or other cause of vacancy'.⁵⁷ This was part of a complicated arrangement, the aim of which was to secure possession of the benefice for Erskine at some later date. In fact it was not until 1 April 1535 that John Leishman, who had held the dignity since 1524, actually

⁵⁵ 8 Feb. 1532 (James V Letters, 206-7). A pension to a Roman clerk was granted on 3 March 1530 (PRO 31/9-32/187-8).

⁵⁶ See above, p.17.

⁵⁷ 10 June (James V Letters, 224).

resigned, and Erskine then sought provision to the chancellorship, reserving an annual pension of £40 Scots for Leishman.⁵⁸ There is no evidence, however, that he did subsequently cede the benefice to Reid. Two months later, he resigned instead in favour of Walter Maxwell, who was a member of the royal household, while retaining the right of regress to the dignity if Maxwell resigned it or died.⁵⁹ At the same time, the pension paid to Leishman on his resignation in favour of Erskine was stopped, apparently by mutual consent, so as not to hinder Leishman's appointment to the vicarage of Kilmacolm.⁶⁰ The precise terms of the original arrangement were thus clearly not applied, though the ultimate objective was achieved. John Reid's name never reappeared in connection with the dignity; by 1539, however, Erskine was chancellor of Glasgow,⁶¹ and continued as such till July 1548, when his brother, John, was given royal presentation on Thomas's resignation while the see was vacant.⁶² The case illustrates the use of a reservation with the right of regress in order to ensure the return of a benefice to the original holder and thus control the succession in the event of a vacancy. In this particular instance, the objective was to secure the benefice for the sons of Lord Erskine, one of the lords of council.⁶³ The completeness of the documentation for these resignations and appointments indicates at the same time the value attached to

⁵⁸ Reg. Supp. 2172, f.143-144.

⁵⁹ 30 May 1535 (Reg. Supp. 2178, f.137^v-138); Maxwell's provision (Reg. Lat. 1631, f.3^v-5); Promise of annates, 12 August (PRO 31/9-33/f.9-10); Erskine's right of regress (Reg. Lat. 1631, f.156^v-159^v).

⁶⁰ Reg. Supp. 2176, f.14^v; PRO 31/9-33/f.21-22.

⁶¹ 7 November (James V Letters, 380).

⁶² 20 July RSS, iii, no.2869).

⁶³ James V Letters, 184; Mary of Lorraine Correspondence, 101n.

obtaining papal confirmation of the arrangements, with the consequent benefit to curial finances even without the intervention of other claimants. The case is also interesting in another respect, in that the king appears to have determined the exchange without any reference to the wishes of Archbishop Dunbar and that there is no evidence that Dunbar was concerned at this infringement of his rights of patronage. This may indicate that he was privy to the arrangement, though there can be no certainty on this point.

A second unopposed appointment was that of Archibald Beaton, a kinsman of Cardinal Beaton,⁶⁴ to the precentorship of Aberdeen when it fell vacant on the death of David Dischington in January 1545. The presentation was made by the crown on this occasion because the see was vacant, and may have represented an arrangement between Arran and the Cardinal, since the presentation was said to be on the advice of the governor and an annual pension of £100 Scots was to be paid, with Archibald's consent, to Master David Hamilton or to anyone else named by Arran. This presentation, on 1 November, was accompanied by a letter to Cardinal Beaton asking him to collate Dischington to the precentorship by virtue of his authority as legate *a latere*.⁶⁵ Since Dischington had died in January, which was a reserved month, it could be also argued that provision was in fact reserved to the papacy or his legate. Two years later and after the Cardinal's death, Beaton sought a new papal provision, saying that he had received the precentorship by ordinary authority,⁶⁶ in a move probably intended to secure his possession

⁶⁴ St. And. Form., ii, 130; Sanderson, Cardinal of Scotland, 118.

⁶⁵ 1 Nov. 1545 (RSS, iii, no.1396-7).

⁶⁶ 24 Nov. 1547 (Reg. Supp. 2622, f.175^v-176).

more firmly. Though no bull of provision has yet been traced, he retained the dignity until his death in 1582.⁶⁷

A further example of an unopposed presentation to a member of the Hamilton family during Arran's governorship is found in late 1545 when David Hamilton, a natural son of James Hamilton, was presented to the treasurership of Dunkeld, once again during a vacancy in the see.⁶⁸ The presentation was made at a time when the bishopric itself was in dispute between Robert Crichton, supported by Mary of Guise and John Hamilton, and presumably represented a move to strengthen the Hamilton interest in the chapter. Although no papal records of a provision have yet been found, he retained the benefice at least until 1547, when he resigned in favour of John Hamilton.⁶⁹

There is also at least one case where, although no explicit royal support can be found in the sources, we can reasonably assume royal goodwill. This was the appointment of Hamilton's predecessor, Laurence Tailliefeir, to the treasurership of Dunkeld in 1532. Tailliefeir, a secretary to James V, had promised the annates as coadjutor to Walter Small in November of that year, having presumably sought provision previously from Clement VII,⁷⁰ and when Small died, he sought a new provision on 19 March 1535.⁷¹ He seems to have retained it peacefully for three years until some opposition emerged from within his own family. His second request for a new provision in May 1538 may indicate his recognition of the possibility of litigation.⁷² Despite Arthur Tailliefeir's claim that Laurence was

⁶⁷ Fasti, 11.

⁶⁸ 9 Dec. (RSS, iii, no.1421); Legitimation (RSS, iii, no.2755).

⁶⁹ See below, p.158.

⁷⁰ 19 Nov. (Fasti, 114).

⁷¹ Reg. Supp. 2166, f.208-208^v.

⁷² 21 May (Reg. Supp. 2306, f.235^v-236).

occupying the benefice illegally and that it had been vacant so long that its presentation had devolved to the pope,⁷³ the treasurership nevertheless remained in Laurence's hands; two years later, he also managed to free it from its last links with the Small family when he secured the cancellation of a pension of £20 Scots to George Small.⁷⁴ There is no evidence that Bishop Crichton opposed the appointment in any way, and tacit episcopal support may have been given.

It is clear, then, that royal nominations to the lesser cathedral dignities were made utilizing crown rights *sede vacante* and also in one case - the admittedly slightly unusual one of the chancellorship of Glasgow - when the bishopric was not vacant, a term which clearly included the period before provision and during disputes over sees. Since these benefices were subject to the rules of reservation rather than the terms of the Indult, however, the scope for challenging royal wishes was much greater, and the most obvious source of such opposition was likely to be the bishops, as the rightful patrons. The most dramatic example of this is the dispute over the archdeaconry of St. Andrews between John Cantuly and George Dury which began in 1529.⁷⁵ This was presumably closely associated with the continuing dispute between James V and Archbishop James Beaton. An early sign of the dispute came in a letter from Beaton to the Pope on 12 July 1529 stating that he was concerned about royal support for Cantuly in the dispute with Dury, who was his nephew and abbot of Dunfermline.⁷⁶ Beaton's generosity to the Dury family has been

⁷³ 4 Aug. 1538 (Reg. Supp. 2288, f.10^V-11).

⁷⁴ 21 Sept. 1540 (Reg. Supp. 2390, f.234-234^V); PRO 31/9-33/105.

⁷⁵ Fasti, 308; Sanderson, Cardinal of Scotland, 96.

⁷⁶ James V Letters, 156.

described as savouring "of dynastic ambition rather than of ecclesiastical zeal."⁷⁷ Andrew Dury was put in possession of the abbey of Melrose and George in possession of Dunfermline, in addition to this claim to the archdeaconry. Cantuly, a royal familiar, was given further support by James in October 1533, when it was said that he had earlier obtained the dignity by royal patronage.⁷⁸ On 22 January 1534, however, Dury promised payment of the annates of possession,⁷⁹ and on 1 September claimed that he had such possession.⁸⁰ James V must soon have decided that this was one dispute which he could not fully win. In March 1535, therefore, an agreement was reached, the case in the meantime having been judged by the king, who had apparently allowed Cantuly to yield his right to the benefice in return for an annual pension of 500 merks Scots, the right of regress in the event of non-payment, promotion to a greater benefice or death, and a renunciation by George of all claim to the fruits taken up by Cantuly prior to the date of judgement.⁸¹ The dispute had clearly been carried to Rome at some stage, and Cantuly's pension and right of regress was given papal approval on 30 May,⁸² while the two litigants also sought papal provision for George together with the grant of a pension and right of regress to John from Paul III in a supplication dated one month later.⁸³ It is

⁷⁷ St. A. Rent., xix.

⁷⁸ 24 Oct. (James V Letters, 249-50).

⁷⁹ PRO 31/9-32/272.

⁸⁰ PRO 31/9-32/287.

⁸¹ 4 March 1535 (ADCP, 445-6).

⁸² Reg. Vat. 1489, f.67-70^v; PRO 31/9-33/17-18).

⁸³ 29 June (Reg. Supp. 2188, f.276-277). There is no obvious explanation for the odd order of Cantuly's grant of the pension and right of regress and this petition. No bull of provision for Dury has been found.

clear, however, that Dury had not fulfilled the terms of the agreement - presumably by omitting to pay the pension - by February 1536, when Cantuly sought fulfilment of the settlement through the lords of Council,⁸⁴ and in a letter of support from James V to the pope.⁸⁵ Under this pressure, Dury seems to have given in and fulfilled the pension agreement, for Cantuly promised the annates of the pension if George died or ceded the dignity on 18 February 1537.⁸⁶ The dispute may have continued beyond this date, but in any case it ended with Cantuly's death in 1539. James's wishes were on this occasion thwarted by the opposition of the Scottish primate and by Beaton's desire to advance the interests of his family. Dury was one of David Beaton's closest advisors, and David's powerful influence must have been used on his behalf and have played a significant part in the final outcome.⁸⁷ At the same time, it is clear that Dury had to pay to get rid of his adversary and that James V was determined that he should keep his side of the bargain.

Dury soon found himself in opposition to James again when he tried to resign in favour of his nephew, Robert Pitcairn, in 1539.⁸⁸ Early that year, Dury had attempted to close a possible loophole for further litigation by obtaining surrogation in John Cantuly's right after his death,⁸⁹ and his subsequent resignation in favour of Pitcairn is dated 18 July.⁹⁰ On 21 September, however, Robert

⁸⁴ 21 Feb. ADCP, 450).

⁸⁵ 28 August (James V Letters, 323).

⁸⁶ (PRO 31/9-33/50-51).

⁸⁷ Sanderson, 'Kin, freindis and servandis', 47.

⁸⁸ Fasti, 308-9; Sanderson, Cardinal of Scotland, 96-7.

⁸⁹ 26 Feb. (Reg. Supp. 2338, f.142^V-143).

⁹⁰ Reg. Supp. 2343, f.197^V-198; St. A. Form., ii, 94-97. The resignation is also recorded on 16 September (PRO 31/9-33/96).

yielded the archdeaconry back in favour of George, with the intention presumably of both strengthening Dury's current possession and his own claim to succession, for he retained the right of regress as part of the arrangement.⁹¹ In addition to the immediate effects of this retrocession, the retention by Pitcairn of the right of regress or access if Dury died or resigned allowed both to maintain some hold on the benefice, as something of an insurance policy. James V does not seem to have been aware of the retrocession to George Dury for he wrote to Cardinal Ghinucci in December 1539, saying that the archdeaconry was in the royal gift and protesting that Dury's resignation in Pitcairn's favour therefore conflicted with his rights.⁹² Such a claim was undoubtedly an extension of even James's wide interpretation of royal rights, since David Beaton had been consecrated the previous year. There is no positive evidence as to what happened in the short run as a result of James's protest, but Pitcairn eventually succeeded his uncle, probably round 1560.⁹³ Royal opposition to the arrangement may have disappeared with the death of James V. The outcome of these two disputes indicates that not only were the archbishops of St. Andrews determined to maintain their own rights of patronage, but also that they could do so effectively against the king. Other bishops might not have had the same success.

The justification for opposition to royal nominations from members of noble families was of course much less compelling. Nevertheless, there were two occasions when a challenge of this kind was mounted during this period. On 21 November 1542, shortly

⁹¹ Reg. Supp. 2347, f.131-131^v.

⁹² 11 Dec. (James V Letters, 384-5).

⁹³ Fasti, 309.

before the end of his reign, James V recommended his cubicular, John Danielston, for the archdeaconry of Dunblane after the death of the previous holder, John Chisholm in that same month, one of those reserved to the papacy.⁹⁴ One litigant from Rome was soon disputing this nomination: John Thornton petitioned for papal provision one month later.⁹⁵ Three years later, however, he ceded his right in favour of Danielston.⁹⁶ However, the Gordons provided a much more serious challenge. William Gordon, fourth son of the earl of Huntly and chancellor of Moray, sought a new provision on 15 January 1543, claiming that he had already obtained it by papal authority.⁹⁷ He may also have had the support of William Gordon, the dean of Dunblane. On 24 February, he sought prorogation of the provision because he could not publish letters of provision in time.⁹⁸ Danielston clearly felt the strength of this challenge and the need to secure his own possession as a result, for he twice petitioned for provision during these months.⁹⁹ He had been able to retain government support after James V's death, as was attested by a royal letter of 19 April,¹⁰⁰ and he himself sought a new provision in June, claiming that he already had episcopal provision.¹⁰¹ Although the dispute between Danielston and Gordon continued at Rome until 1545, it is clear that Danielston's possession, aided perhaps by

⁹⁴ James V Letters, 445.

⁹⁵ 20 Dec. 1542 (Reg. Supp. 2480, f.31-31^v).

⁹⁶ 1 June 1545 (Reg. Supp. 2542, f.244^v; PRO 31/9-33/179).

⁹⁷ Reg. Supp. 2479, f.148-148^v.

⁹⁸ Reg. Supp. 2478, f.194^v.

⁹⁹ 14 Jan. (Reg. Supp. 2474, f.37-37^v); 15 Feb. (Reg. Supp. 2486, f.20).

¹⁰⁰ LP Henry VIII, xviii, pt.1, no.424.

¹⁰¹ 8 June (Reg. Supp. 2480, f.40.).

support from the government, was sufficient to secure his hold on the benefice and ward off the threat from Gordon, who resigned in his favour on 9 March 1545 at about the time he was nominated for the bishopric of Aberdeen, as well as that from Thornton.¹⁰² In fact when Danielston died, at some time prior to 5 November 1547, another member of the family, James Gordon, described as 'of noble birth', was one of the petitioners for the benefice, although there is no evidence that he was successful.¹⁰³

On the second occasion, the challenge appears to have had greater success, but the circumstances suggest a rather different explanation. In March 1547, William Gordon, the rector of Duthil in Moray, received royal presentation to the treasurership of Caithness, when it was stated that the see was vacant. Gordon was described later as being of noble birth and it is possible that he was related to Alexander, brother of the earl of Huntly, who was seeking the bishopric of Caithness at the same time.¹⁰⁴ William sought a new provision to the dignity on 14 February 1548, saying that the benefice was void by resignation of David Carnegie, and that he had already obtained it by the authority of the ordinary.¹⁰⁵ This petition was soon followed, however, by a royal presentation of Carnegie to the treasurership on 15 April, with the see again being

¹⁰² A further petition for provision was made on 29 May 1544 (Reg. Supp. 2513, f.221^V-222). Gordon's resignation (Reg. Supp. 2535, f.244^V; Reg. Supp. 2535, f.246-246^V; PRO 31/9-33/177-8).

¹⁰³ 5 Nov. 1547 (Reg. Supp. 2637, f.27^V). Danielston was still seeking a new provision only months earlier on 6 May (Reg. Supp. 2615, f.45^V).

¹⁰⁴ 27 March (RSS, iii, no.2238). The bishopric was technically held by Robert Stewart at the time, but he had been sequestered for treason in 1545, and Gordon had received crown nomination, although not provision.

¹⁰⁵ Reg Supp. 2652, f.193.

described as vacant.¹⁰⁶ What appears to be a change of mind on the part of the government should almost certainly be seen as part of the struggle between Arran and the Dowager which was particularly fierce at the time in the aftermath of the battle of Pinkie. Whatever the cause, Gordon was determined to retain his hold on the treasurership, and he sought provision to the dignity on three occasions in May and June 1548.¹⁰⁷ Carnegie responded with two petitions of his own in July in one of which he claimed to have the support of the Queen and her tutor, and there was also a brief intervention by Thomas Ker, a clerk of the diocese, on 24 May.¹⁰⁸ This particular flurry of petitions may be seen as originating from two specific causes. On the one hand, Thomas Stewart had died in April 1548, and the benefice was therefore legally reserved for papal provision; on the other, although by custom the benefice might be subject to royal presentation because of the vacancy, the confused state of government may have encouraged both Gordon, as the holder, and the other claimants to take their cases to Rome. There is in fact no evidence of further royal intervention after the two initial presentations. In this case, despite the later royal support for Carnegie's appointment, the dignity was retained by Gordon until after the Reformation.¹⁰⁹

Opposition to royal presentation was not limited to episcopal nominees and those with noble family connections. In several instances, it came from claimants of less importance. For example,

¹⁰⁶ RSS, iii, no.2717.

¹⁰⁷ 24 May (Reg. Supp. 2646, f.178); 25 May (Reg. Supp. 2631, f.258^v); 15 June (Reg. Supp. 2639, f.47).

¹⁰⁸ Carnegie petitioned on 7 July (Reg. Supp. 2638, f.31) and 26 July (Reg. Supp. 2640, f.68^v). Ker's petition was on 24 May (Reg. Supp. 2646, f.8^v).

¹⁰⁹ Fasti, 69.

when the chancellorship of Aberdeen fell vacant while the see itself was vacant in 1532, prior to the consecration of William Stewart as bishop, James V first presented William Semple, a royal chaplain, to the dignity on 8 January 1533.¹¹⁰ When Semple resigned in favour of John Reid, the king transferred his support to the new holder in October 1534, and in so doing, provided the first indication of opposition when he complained that a David Douglas was seeking the benefice and sought support for his new nominee.¹¹¹ On 31 December, Reid himself sought a new provision to the chancellorship, saying that he already had ordinary provision to it,¹¹² and then tried again to fend off the challenge from David Douglas with a second petition in September of the following year.¹¹³ It was not until July 1536 however that Douglas ceded his right in the dignity in favour of Reid.¹¹⁴ The strength of Reid's possession may be indicated by the fact that he did not have to grant a pension on the fruits of the chancellorship to remove Douglas's challenge; in any case he seems to have retained his hold on the dignity until his death in 1540.¹¹⁵ This bid by Douglas to oust holders with royal support thus failed.

Another bid by members of the Douglas family to wrest possession of a cathedral dignity from a royal servant ended successfully in at least the short term. Robert Crichton, provost of St. Giles and a royal familiar had held the precentorship of Dunkeld

¹¹⁰ RSS, ii, no.1474.

¹¹¹ 13 Oct. 1534 (James V Letters, 276-7).

¹¹² Reg. Supp. 2165, f.23.

¹¹³ 25 Sept. (Reg. Supp. 2185, f.114^v-115).

¹¹⁴ 14 July (Reg. Supp. 2218, f.172^v).

¹¹⁵ Fasti, 14.

since 1530,¹¹⁶ but by 1533 he was litigating with both John and David Douglas, the second of whom resigned in favour of Robert Montgomery, elect of Lismore, despite his claim that he had obtained papal provision, on 26 May.¹¹⁷ This resignation came to nothing, but John Douglas and Crichton continued their litigation. Crichton was given explicit royal support in October 1533 and again in March 1534,¹¹⁸ when James stated that Crichton had received the benefice by both ordinary and papal authority, and it seems likely that he also had the support of Bishop George Crichton. In the second of the two letters it was said that Douglas was in Paris and conducting his litigation from there by fraudulent means. The case was finally settled in August 1536, when a concord was arranged between the two litigants by which Robert yielded his right in the dignity in favour of John Douglas, but retained the fruits and other emoluments for one or several years from the death of Alexander Hay, his predecessor as precentor. This concord appears to have had the assent of Bishop Crichton. Douglas may have hoped to secure the fruits and possession fairly soon.¹¹⁹ In fact, however, he resigned in favour of John Douglas 'junior' in October of that year and died during the same month.¹²⁰ The chancellorship therefore remained in the family although, as we shall see, a separate challenge was subsequently mounted to John Douglas junior's possession. Notwithstanding James V's early support for Crichton - who later succeeded his kinsman as bishop of Dunkeld - it was nevertheless

¹¹⁶ Fasti, 109.

¹¹⁷ PRO 31/9-32/241.

¹¹⁸ Date in October uncertain (James V Letters, 251); 22 March 1534 (James V Letters, 260).

¹¹⁹ 2 August (Reg. Supp. 2220, f.152^V-153^V).

¹²⁰ See below, p.143.

Douglas who won his case at Rome, and his family which retained it after his death.

The earl of Arran similarly encountered opposition to one of his nominees. When Gavin Dunbar, treasurer of Ross, died in 1546, John Hamilton of Millburn was presented to the dignity by the crown on 13 September while the see was vacant following the death of Robert Cairncross.¹²¹ By June 1547, however, he had two competitors for the benefices. On 3 June, Robert Fraser petitioned for a new provision, claiming that he already had an expectative grace from the pope,¹²² and the following day Thomas Ker also sought papal provision, claiming that it had devolved to papal provision by the delay in filling the dignity.¹²³ Hamilton and Fraser were still litigating in February 1548, when Hamilton petitioned on his own behalf for provision.¹²⁴ However, he had died before 22 April, when the crown presented John Robertson, step-son of Matthew Hamilton of Millburn, to the treasurership stating that the see was vacant, although by this time David Paniter had been provided to the bishopric though not consecrated. Robertson himself petitioned for provision a month later.¹²⁵ Fraser however, taking advantage of Hamilton's death, continued to dispute the case by seeking provision himself by surrogation in Hamilton's right on 24 May.¹²⁶ The other claimant, Thomas Ker, was effectively 'bought off' in November 1548

¹²¹ RSS, iii, no.1892. Although David Paniter had received crown nomination to the bishopric, he had not yet received provision and been consecrated.

¹²² Reg. Supp. 2605, f.80^v.

¹²³ 4 June (Reg. Supp. 2605, f.79).

¹²⁴ 22 Feb. 1548 (Reg. Supp. 2647, f.109^v-110).

¹²⁵ RSS, iii, no.2372. Robertson's petition was dated 18 May (Reg. Supp. 2633, f.122).

¹²⁶ Reg. Supp. 2646, f.161^v-162.

when he yielded his right in the benefice in favour of Fraser and an annual pension of 20 merks Scots together with the right of regress if Fraser reneged on the payment of the pension.¹²⁷ Fraser himself, however, subsequently realized that he too—had little hope of wresting the treasurership from the man in possession, for on 25 August 1549, without even seeking a pension, he yielded his right in favour of Robertson who retained the dignity until his death in 1596.¹²⁸

It is clear that there was still considerable scope for royal influence in the appointments to such lesser dignities, primarily arising from the royal right of presentation to such benefices during any vacancy in a see. It is clear too that this right was also understood, at least by the crown, as including periods when a new bishop had received papal provision but had not yet been consecrated. Royal influence also extended beyond the making of presentations during a vacancy to include nominations made at other times and support for a particular candidate, these usually being individuals in royal service. Such influence did not go unchallenged, however, for there are several examples of opposition to royal nominees, both when the crown had a legitimate right of presentation and when the royal right was less clear. Where that opposition had a strong legal and practical basis, as was particularly the case with the appointment of Dury and subsequently his nephew by the two Beaton archbishops – where the case is perhaps better seen as royal opposition to an episcopal appointment rather than the other way round – then royal influence seems to have been insufficient to defeat the challenge. Where the opposition was less well-founded as

¹²⁷ 21 Nov. (Reg. Supp. 2648, f.132).

¹²⁸ Reg. Supp. 2675, f.91^v–92; Fasti, 281.

in the majority of other cases, royal influence usually carried the day.

The right of patronage to these lesser dignities, however, lay with the bishops in normal circumstances. In addition to these occasions when bishops may have concurred in royal presentations or, as happened with the archdeaconry of St. Andrews, successfully resisted royal influence, there were at least two occasions when appointments were made by bishops, apparently with little or no opposition. One of these concerned the second archdeaconry in the diocese of St. Andrews, that of Lothian, which the Beaton family succeeded in retaining even after the death of David Beaton. When Patrick Stewart died in April 1545, one of the reserved months, John Stevenson and David Methven both sought papal provision on 31 May and 1 June respectively.¹²⁹ On the latter date too, however, Walter Beaton, the natural brother of the cardinal, also sought provision to the archdeaconry, and the two other claimants clearly disappeared quickly from the scene.¹³⁰ Two years later, in August 1547, Walter resigned in favour of his nephew, Alexander, David Beaton's son;¹³¹ in March of the following year, however, Alexander resigned back in favour of his uncle whilst retaining the right of access to the dignity if Walter ceded his right in the benefice or died. Only then did Walter obtain papal provision to the archdeaconry.¹³² The

¹²⁹ 31 May (Reg. Supp. 2554, f.70^V-71); 1 June (Reg. Supp. 2543, f.234-234^V).

¹³⁰ Reg. Supp. 2555, f.135.

¹³¹ 29 Aug. (Reg. Supp. 2619, f.59^V-60).

¹³² Alexander Beaton's resignation, 21 March (Reg. Supp. 2642, f.237^V-238); Walter Beaton's provision (Reg. Lat. 1793, f.26-27). On 30 December, he promised the annates (PRO 31/9-33/247). Alexander Beaton's bull of regress (Reg. Lat. 1793, f.28-30^V). He promised annates of regress with Walter (PRO 31/9-33/247).

mechanics of this retrocession were similar to the procedure followed by Walter's cousin, George Dury, in respect of the principal archdeaconry. It was presumably the rules with regard to a vacancy by the death of a holder in a reserved month and the desire to secure the benefice so securely as to fend off any challenge from the crown of elsewhere which took the two Beaton to Rome. But there can be little doubt that the original appointment was made by David Beaton. Walter, like Dury, was an adviser of the cardinal, who entrusted him with responsibility for the papal legate, Marco Grimani, in 1543.¹³³

While William Stewart was bishop of Aberdeen, the treasurership came into the hands of his family, thus providing a further example of an appointment of this kind. In July 1537, George Marschell, treasurer since 1535, resigned the benefice in favour of John Stewart, the son of the bishop.¹³⁴ This was in fact part of a complex arrangement by which William retained the fruits of the provostry of Lincluden and the right of regress to it which he had continued to hold *in commendam* when he became bishop of Aberdeen, and Marschell, who had already received the title of provost of Lincluden in 1536 as part of the arrangement, in turn retained the fruits of the treasurership for life or until William Stewart gave up the commend and fruits of the provostry, together with the right of regress to the dignity. William had originally tried to secure the appointment of John Stewart as his successor at Lincluden in 1535 without success, and this was presumably a more roundabout way of securing a benefice for his son. If so it was clearly successful. Papal confirmation was given both to John's provision and Marschell's

¹³³ Sanderson, 'Kin, freindis and servandis', 47-8.

¹³⁴ 30 July (Reg. Supp. 2258, f.172^v-173).

retention of the fruits as a pension.¹³⁵ John Stewart succeeded Marschell in practical terms when Marschell became chancellor of Aberdeen in 1541, and appears to have retained the treasurership until 1551.¹³⁶ Marschell presumably retained the fruits however until William Stewart died in 1545, enabling him in turn to obtain the fruits of Lincluden.

There was also one special circumstance which led to appointments being made to lesser dignities directly by a bishop without any outside involvement. When Bishop Robert Reid gave the cathedral at Kirkwall a new constitution in 1544, he presented Malcolm Halcro to the provostry of Orkney.¹³⁷ In this case, the reason may have been the fact that Halcro had been archdeacon of Shetland, which was the senior office in the diocese, since 1529, and the appointment was something of a promotion with a change of title as part of the new administrative structure. He retained the dignity until 1544.¹³⁸ The Halcros were also a major Orkney family, and as such in a strong position with regard to holding offices within the diocese. Nicholas Halcro was also appointed precentor of Kirkwall Cathedral at the same time, and was later succeeded by Magnus Halcro.¹³⁹ What is perhaps more surprising is that there is no evidence of the erection of the new constitution being confirmed at Rome, which may be a further indication of the tendency for the

¹³⁵ Provision for Stewart, 20 July (Reg. Lat. 1674, f.82^V-85); pension for Marschell, same date (Reg. Lat. 1674, f.79^V-82).

¹³⁶ Fasti, 14,16.

¹³⁷ 28 Oct. 1544 (RMS, iii, no.3102).

¹³⁸ Fasti, 255.

¹³⁹ Fasti, 256.

remoter dioceses to be less concerned with the formalities of papal government than the more central ones.¹⁴⁰

Just as presentations made by the king encountered opposition from various sources and were not always successful, so episcopal appointments were not always made without counter-claims being put forward. When the precentorship of Ross fell vacant on the death of Walter Stewart in January 1542, for example, it immediately attracted several claimants at Rome, since it had become vacant in one of the reserved months. John Elphinstone first sought provision on 23 January, following this with a second petition on 7 February, in a petition in which he implied the presence of an intruder.¹⁴¹ These were rapidly followed by petitions from James Salmond, one of the Scottish procurators at Rome, Archibald Hay and William Meldrum, all within the next month;¹⁴² none of these, however, appear to have provided sustained opposition. By 1544, he had a much more formidable challenger in the form of John Cairncross, who was presumably the choice of the bishop, Robert Cairncross, and may well have been his natural son who was legitimized in 1537.¹⁴³ Elphinstone for his part was a servant of the earl of Arran.¹⁴⁴ At any event, Cairncross and Elphinstone were litigating on 9 March

¹⁴⁰ For another example, see the deanery of Argyll, above, 109.

¹⁴¹ 23 Jan. (Reg. Supp. 2460, f.256-256^V); 7 Feb. (Reg. Supp. 2469, f.192).

¹⁴² Salmond, 13 Feb. (Reg. Supp. 2450, f.162-162^V); Hay, 25 Feb. (Reg. Supp. 2446, f.216-216^V); Meldrum, 26 Feb. (Reg. Supp. 2481, f.91^V-92).

¹⁴³ RMS, iii, no.1712.

¹⁴⁴ LP Henry VIII, xviii, pt.1, no.504.

1544, when Cairncross sought papal provision.¹⁴⁵ Whatever happened at this stage, the litigation continued for at least four years; it was not until 1551 that Cairncross finally achieved undisputed possession, and this was only achieved by paying Elphinstone a pension to buy off his opposition.¹⁴⁶ Although the litigation continued for nine years, the indication from Elphinstone that there was an intruder in the benefice in 1542 may raise doubts as to whether he ever did have practical possession of the precentorship. Despite the opportunities for litigation offered by the rules of reservation, a member of the Cairncross family, who presumably was the nominee of bishop Robert Cairncross, was eventually able to secure his possession.

Similarly, John Lauder, who was a close associate of the archbishop of Glasgow, Gavin Dunbar,¹⁴⁷ nevertheless had to fight off two challenges to his possession of the archdeaconry of Teviotdale. He had obtained possession of the dignity on the death of Thomas Ker early in 1534.¹⁴⁸ Two years later, John Duncanson, another of the Scots at Rome, mounted a brief challenge, claiming that he already had papal provision and basing his case on Ker's death in August, a reserved month.¹⁴⁹ The main challenge, however, came from Thomas Traill against whom Lauder was litigating at Rome on 3 October 1536.¹⁵⁰ In May of the following year, Lauder declared that Traill was dead and sought surrogation in his right together

¹⁴⁵ Reg. Supp. 2525, f.101^v-102.

¹⁴⁶ Fasti, 276.

¹⁴⁷ St. A. Form., i, vii.

¹⁴⁸ Fasti, 178.

¹⁴⁹ 25 April (Reg. Supp. 2207, f.258-258^v).

¹⁵⁰ Reg. Supp. 2228, f.267-267^v.

with provision.¹⁵¹ A third challenge came in November 1537, when John Campbell, probably the later bishop of the Isles, sought provision to the benefice on the grounds that Lauder was dead.¹⁵² This was not true, and in fact Lauder retained the archdeaconry until 1543 and indeed the fruits of the benefice until 1551.¹⁵³

In these cases, the bishop's nominees were able to fend off successfully the threats to their possession despite the opportunity given by the death of previous holders in reserved months to potential claimants, and particularly the group of Scots working in Rome. There is one case, however, where a bishop seems to have had limited success in securing the appointment of his nominee. The Chisholm family, which had held the bishopric of Dunblane since 1487, made a determined effort to obtain the chancellorship of the diocese from 1531 onwards. John Chisholm, who was in possession in that year, when he appears to have bought off opposition from John Thornton,¹⁵⁴ claimed in April 1536 that he had already obtained the dignity 'by ordinary or apostolic authority' but sought a new provision to it.¹⁵⁵ However, Patrick Forhous, who had been provided to the chancellorship in 1529,¹⁵⁶ was litigating with Chisholm on 13 August 1538, when the crown opposed him on the grounds that he was purchasing or impetrating at Rome both this dignity and the subdeanery of Brechin, together with the parsonage of Spott, which

¹⁵¹ 2 May 1537 (Reg. Supp. 2245, f.125^v-126).

¹⁵² 23 Nov. (Reg. Supp. 2218, f.223^v-244).

¹⁵³ Fasti, 178.

¹⁵⁴ 26 Jan. (PRO 31/9-32/190-1).

¹⁵⁵ 26 April (Reg. Supp. 2207, f.258-259. On 20 July 1538, he also sought prorogation for two years of the condition that he took priest's orders within two years (Reg. Supp. 2300, f.34-34^v).

¹⁵⁶ Fasti, 85.

was in royal patronage. The lords of Council asked that he produce the licence which he claimed to have to purchase the two dignities.¹⁵⁷ Against this background, John Chisholm himself petitioned for a new provision early the following year, a move which suggests that his possession was not really secure.¹⁵⁸ That this was indeed the case is indicated by a record of his having resigned in favour of Forhous in April 1542.¹⁵⁹ Whether he abandoned all claim to the chancellorship at this point is not totally clear for, in 1549, when Robert Lyon, a clerk of Aberdeen diocese, sought provision to the dignity, he did so on the grounds that John Chisholm had died in a reserved month.¹⁶⁰ Apart from this, however, there is no further mention of the Chisholm family after 1543. Despite the weight of episcopal authority which must have assisted Chisholm's case, the family apparently failed to retain the chancellorship. During the 1540s, the Forhous family tried to retain its hold on the dignity by Patrick's resignation in favour of his natural brother's son, also named Patrick, on 24 June 1543.¹⁶¹ This seems to have failed, however, because of the death of the younger Patrick in a reserved month. Two claimants at Rome then sought provision to the chancellorship, David Bonar being the first on 3 April 1547, and Alexander Thomson two months later.¹⁶² Possibly because both of these claimants were outside Scotland, neither of them appears to

¹⁵⁷ ADCP, 472.

¹⁵⁸ 22 March (Reg. Supp. 2334, f.51-52^v).

¹⁵⁹ 19 April 1542 (SRO, Prot. Book Edward Dikson, f.70^v).

¹⁶⁰ 4 Jan. 1549 (Reg. Supp. 2648, f.154^v-155).

¹⁶¹ Reg. Supp. 2489, f.268^v; The younger Patrick sought prorogation of the provision for 6 months to publish the resignation on 26 June 1545 (Reg. Supp. 2555, f.256^v).

¹⁶² Bonar's petition (Reg. Supp. 2618, f.122^v); Thomas's petition, 25 June (Reg. Supp. 2610, f.195-195^v).

have been successful. It was James Kennedy, who first appears named as chancellor in 1546, and about whom no curial record has been traced so far, who obtained the dignity and retained it till 1571.¹⁶³

Threats to royal nominations and to those of episcopal patrons clearly caused litigation on a considerable scale. Other disputes over these dignities which did not arise in these ways and whose roots are less obvious were also carried to Rome during this period. For example, litigation began over the archdeaconry of Dunkeld in 1547 between David Meldrum and David Spens.¹⁶⁴ Meldrum resigned in favour of Spens on 10 May and Spens obtained provision to the dignity.¹⁶⁵ Ten days later, however, Spens resigned back in favour of Meldrum, with access to the dignity for himself if Meldrum resigned or died.¹⁶⁶ On the surface, these transactions simply appear as a pair of interlocking resignations designed to ensure Spens' peaceful succession. Later in the year, however, Spens twice sought prorogation of his provision in terms which make clear that he regarded only the original resignation as valid,¹⁶⁷ and he also sought a new provision in January 1548.¹⁶⁸ Seven months later, Meldrum re-appeared asking for a commission by brief against Spens who, he claimed, had falsely asserted a resignation and had intruded

¹⁶³ Fasti, 85.

¹⁶⁴ Fasti, 121-2.

¹⁶⁵ Reg. Supp. 2616, f.270^V-271; Provision (Reg. Lat. 1784, f.3-5^V).

¹⁶⁶ 20 May 1547 (Reg. Supp. 2619, f.266-266^V).

¹⁶⁷ 15 Oct. (Reg. Supp. 2617, f.98); 19 Dec. (Reg. Supp. 2623, f.81-81^V); he obliged himself for the annates on 23 December (PRO 31/9-33/325).

¹⁶⁸ 14 Jan. 1548 (Reg. Supp. 2624, f.78^V-79).

himself in the archdeaconry.¹⁶⁹ Meldrum had in fact held the dignity since 1532, but his long occupancy failed to enable him to resist Spens's persistence successfully, although he did not finally succumb until 1550 when Spens managed to secure the benefice, which he subsequently retained until 1586.¹⁷⁰ None of the petitions, however, gives any clue as to the cause of the dispute.

The dispute at Dunkeld involved only two litigants. There was considerably more competition for the treasurership of Brechin after Charles Fotheringham resigned the benefice on 6 July 1536 in favour of Robert Monypenny, whilst retaining all the fruits and the right of regress.¹⁷¹ Monypenny clearly felt unsure about the security of his position for, on 6 November, he sought both a new provision and prorogation of the provision for 6 months so that he might obtain possession of the dignity.¹⁷² This feeling of insecurity was justified, for opposition from a variety of litigants soon appeared, although few of these can really have expected any measure of success from their efforts. William Tonson sought provision on 7 August 1536;¹⁷³ Peter Sandelands, claiming that he was of noble birth, asked for a new provision on 20 December and again in May 1538, when he said that Monypenny had died in a reserved month.¹⁷⁴ John Tod, a priest of Glasgow, similarly sought provision on 12 April 1537, claiming that

¹⁶⁹ 21 Oct. 1548 (Reg. Supp. 2642, f.230^v-231); Brief registered 22 Oct. (Brev. Lat. 46, f.614)>

¹⁷⁰ Fasti, 122.

¹⁷¹ Reg. Supp. 2218, f.223^v-224; Provision of Monypenny (Reg. Lat. 1663, f.123^v-126); Pension to Fotheringham (Reg. Lat. 1663, f.61-63^v). Monypenny promised annates and Fotheringham the annates of regress on 20 October (PRO 31/9-33/46; PRO 31/9-33/45-6).

¹⁷² Reg. Supp. 2237, f.246^v-247; Reg. Supp. 2235, f.287^v.

¹⁷³ Reg. Supp. 2220, f.124-124^v.

¹⁷⁴ Reg. Supp. 2233, f.86^v-87; 31 May (Reg. Supp. 2301, f.64^v-65^v).

Fotheringham had died in either the previous October or November, both of which were reserved months, and asked for surrogation in Monypenny's rights thirteen months later.¹⁷⁵ With the deaths of both Fotheringham and Monypenny in these months, the field for litigants was wide open. James Salmond, a Scottish procurator at Rome, added his name to the list of petitioners on 24 May 1538,¹⁷⁶ and Thomas Huchesoun four days later.¹⁷⁷ Huchesoun however ceded his right in the dignity to David Methven who sought provision on 14 August 1539.¹⁷⁸ By this time, a claim was being put forward from another quarter. Henry Sinclair, a royal familiar and lord of session, had made his first petition for provision on 13 June 1538, and in August of the following year, Salmond resigned in his favour.¹⁷⁹ Sinclair sought a new provision early the following month,¹⁸⁰ and although he does not appear again in the curial records until May 1544, when he again sought a new provision,¹⁸¹ he had obtained collation by bishop's authority on 6 June 1543.¹⁸² He does not appear to have received any explicit royal support in his attempt to retain this dignity, although he did benefit from it in his litigation over the parsonage of Glasgow, as we shall see, and the abbacy of Kilwinning, and it is clear that he enjoyed royal goodwill during James's reign, and does not seem to have lost favour thereafter.

¹⁷⁵ Reg. Supp. 2246, f.182; 31 May 1538 (Reg. Supp. 2301, f.64-64^V).

¹⁷⁶ Reg. Supp. 2308, f.93^V-94.

¹⁷⁷ 28 May (Reg. Supp. 2294, f.253^V).

¹⁷⁸ Reg. Supp. 2344, f.121^V-122; 25 Aug. (PRO 31/9-33/38).

¹⁷⁹ Reg. Supp. 2295, f.290^V; 11 Aug. 1539 (Reg. Supp. 2340, f.47^V-48).

¹⁸⁰ 7 Sept. (Reg. Supp. 2353, f.247-248).

¹⁸¹ 29 May 1544 (Reg. Supp. 2513, f.221-221^V).

¹⁸² Fasti, 51.

These litigants at Rome were not, however, the only people interested in the treasurership. James Arnott, James Wawane and James Ard, a nephew of John Duncanson, all appear as holding the dignity in Scottish records between 1541 and 1547. Indeed, it is not possible to identify with any certainty who actually retained it successfully. The most likely candidate is probably James Ard: he was to be collated on 31 January 1543, he appeared as treasurer in 1547, and it was he who was said to have died recently when James Anderson sought papal provision on 16 January 1548. He may in practice have been in possession throughout this time.¹⁸³

Patrons within Scotland clearly endeavoured to maintain their rights of patronage to these dignities against opposition from other claimants when it became necessary to do so. As several of these previous cases have indicated, however, the scope for challenging nominations by crown or bishop was considerable, particularly arising from that rule of reservation which reserved benefices whose holder died in certain months to papal appointment. It is not surprising therefore that a major threat to local rights of patronage to cathedral dignities came from the group of Scots at Rome who acted as procurators, making their living from acting on behalf of litigants who could not come to the curia. A valuable supplement to their income could be gained by obtaining possession of cathedral dignities and their fruits. They were also ideally situated geographically for pursuing their claims, being involved in the litigation process at the curia. Some examples of their activity have already surfaced in the cases examined earlier in this chapter. Although these men frequently appeared in royal letters as being able to furnish details

¹⁸³ *Fasti*, 51; Reg. Supp. 2635, f.292^v.

of a particular case on behalf of the king to the pope or influential cardinals, they were just as often found litigating on their own behalf. The relative wealth of the non-elective cathedral dignities compared with other benefices, coupled with their freedom from the restrictions of the Indult and therefore the likelihood of royal interest, made them particularly attractive sources of litigation for the procurators.

One of the most inveterate of the benefice-seekers resident in Rome was John Thornton, who had been effectively in permanent residence there since 1524.¹⁸⁴ It should be said that Thornton, whatever the scale of his activities on his own behalf, did indeed perform valuable work at Rome on behalf of Scottish clerics. In what may have been a recognition of these endeavours, he was given an open-ended nomination by James V in January 1531 to any benefice or dignity to which he might be presented by the pope.¹⁸⁵ Whatever the value of this, his personal interest in these dignities was certainly extensive. In 1534, for example, he was litigating over the chancellorship of Brechin with John Colden, who had held the dignity since at least 1532. According to Thornton, Colden had ceded his right in the dignity to him and he, in turn, now wished to yield his right to Thomas Strathauchin, who sought provision on this basis on 3 November.¹⁸⁶ Colden was still chancellor in October 1535, when he appeared as a witness,¹⁸⁷ and there is no further record of either Thornton or Strathauchin in connection with it. It is clear,

¹⁸⁴ Inchcolm Chrs., 198.

¹⁸⁵ 9 Jan. (RSS, ii, no.795).

¹⁸⁶ Reg. Supp. 2156, f.207-207^v.

¹⁸⁷ 10 Oct. (RSS, ii, no.1798).

therefore, that this suit was unsuccessful. The dignity remained in Colden's possession until at least 1538.¹⁸⁸

Thornton appeared again in litigation over the succentorship of Ross in 1537. The benefice had been held by David Haliburton since 1532, but on 23 June 1537, Haliburton said that he was litigating in the curia with John Thornton, having obtained the dignity by episcopal appointment, while Thornton was said to have obtained it by apostolic authority 'as if it were vacant'. Haliburton asked for a new provision and surrogation in any right which Thornton had, since John was proposing to cede his right in the hands of the pope.¹⁸⁹ He repeated this request in March 1539 and yet again in similar terms the following year.¹⁹⁰ Haliburton is found witnessing a charter in 1541 in the locality along with local secular dignitaries, so he must have been resident in the area.¹⁹¹ In any case, Thornton was clearly unable to remove him from possession of the succentorship, which he continued to hold till around 1570.¹⁹²

John Thornton, however, was not always unsuccessful in his litigation, for on two other occasions, he did succeed in obtaining cathedral dignities. The first of these was also concerned with a dignity in the chapter of Fortrose Cathedral when he managed to hold off a number of claimants to obtain the subdeanery of Ross. The dignity had been held by John Hepburn, bishop of Brechin, since 1516. Independently it would seem of Hepburn's possession, there had been litigation at the Roman court between Patrick Liddell and

¹⁸⁸ Fasti, 49.

¹⁸⁹ Reg. Supp. 2250, f.116^v-117^v.

¹⁹⁰ 22 March (Reg. Supp. 2329, f.281-282); 26 July 1540 (Reg. Supp. 2384, f.106^v-107^v).

¹⁹¹ 22 June 1541 (RMS, iii, no.2380).

¹⁹² Fasti, 285.

John Bissett. Liddell sought and obtained provision to the subdeanery on 20 December 1534.¹⁹³ It was at this point that Thornton appears to have entered the fray. On 12 March 1535, he petitioned for provision from the pope, claiming that neither Bissett nor Liddell had any right in the benefice,¹⁹⁴ and he followed this with two more petitions in 1535 and 1536. In the first of these he named John Hepburn as a litigant, the first indication in these records that Hepburn was actively defending his title; in the second, he claimed that the dignity had become void by the death of John Grey in February.¹⁹⁵ Liddell, however, promised to pay the annates of the subdeanery on 17 June 1536,¹⁹⁶ and in two further petitions, both dated 21 October but clearly separate, asked for provision again. John Grey re-appeared in one of these petitions as having died now in the previous June, and a new claimant, Robert Heriot, was said to be ceding the dignity in the second; nothing more was heard of either of them.¹⁹⁷ John Thornton's persistence appears to have paid off in this case, because he retained possession of the subdeanery. In April 1539, both John Hepburn and Patrick Liddell resigned in his favour,¹⁹⁸ and he continued to hold it till 1549, when he resigned the title in favour of his nephew, James, whilst retaining the fruits.¹⁹⁹

¹⁹³ Reg. Supp. 2156, f.212-212^v; Provision, where it is said he already had provision from Clement VII (Reg. Lat. 1482, f.98-99^v). Liddell was a procurator at Rome in the 1540s, and was probably also there at this time.

¹⁹⁴ Reg. Supp. 2165, f.223^v-224.

¹⁹⁵ 19 Nov. 1535 (Reg. Supp. 2193, f.59-59^v); 5 April 1536 (Reg. Supp. 2207, f.252^v).

¹⁹⁶ PRO 31/9-33/42.

¹⁹⁷ Reg. Supp. 2226, f.130-130^v; Reg. Supp. 2226, f.130^v-131.

¹⁹⁸ 27 April (Reg. Supp. 2336, f.252-252^v; PRO 31/9-33/62,77-8).

¹⁹⁹ Fasti, 283.

These last two cases are of additional interest in that Clement VII had varied the normal reservation of months a few years earlier in respect of the diocese of Ross. In March 1527, he had granted James Hay, bishop of Ross, an indult to present to benefices in his diocese in all months of the year.²⁰⁰ Despite this delegation of papal powers, both these cases produced extensive litigation at Rome and, in the case of the subdeanery, resulted in a successful conclusion for the procurator at Rome.

Thornton was again successful in 1540, when he obtained the precentorship of Moray. This had been held since 1527 by Alexander Lyon, son of John Lyon, Lord Glamis.²⁰¹ On 10 November 1539, Lyon resigned the benefice in favour of John Thornton, who already held a prebend in the cathedral, but retained the fruits and the right of regress to the precentorship if Thornton died or ceded the dignity, and Thornton petitioned for provision.²⁰² He was only freed from these restrictions on his title by Alexander's death, which took place sometime before 1 December 1541, on which date Thornton sought a new provision to the precentorship.²⁰³ He then retained the dignity until his death in 1565.²⁰⁴

No less well-known as a trader in benefices was James Salmond, another of the Scottish procurators at Rome. Unlike Thornton,

²⁰⁰ 8 March (Cowan 'Patronage, provision and reservation', 83).

²⁰¹ Scots Peerage, viii, 278. Lyon seems to have felt uneasy about his possession, for on several occasions he sought new provisions, e.g. 27 May 1536 (Reg. Supp. 2224, f.27-28), 23 March 1537 (Reg. Supp. 2240, f.88-88^v).

²⁰² Reg. Supp. 2355, f.31^v-22. Lyon's bull for the pension and regress (Reg. Lat. 1704, f.29-31). Thornton sought correction of the value of the fruits on 23 November (Reg. Supp. 2359, f.172-172^v).

²⁰³ Reg. Supp. 2461, f.218^v-219.

²⁰⁴ Fasti, 225.

Salmond's three attempts to secure cathedral dignities for himself during this period were all to end in failure. The first of these concerned the precentorship of Dunkeld, which had come into the hands of the Douglas family in 1536, after a long dispute with Robert Crichton for whom royal, and presumably episcopal, support had proved of no help.²⁰⁵ John Douglas resigned in October of that year just before his death in France in favour of John Douglas 'junior', who was then given papal provision.²⁰⁶ His death in a reserved month, however, precipitated a series of petitions by several procurators at Rome. David Bonar, on 13 October, was the first, but he was followed by James Salmond on 5 November and John Stevenson on 22 November.²⁰⁷ David Bonar's challenge was not sustained for long, however, for he resigned his right early in 1537, and Salmond sought provision.²⁰⁸ This did not go unchallenged, however, because John Douglas junior put forward his case again in January and April 1538, when he stated that he was involved in litigation with James Salmond, Robert Crichton and Mark Ker.²⁰⁹ By September of that year, another claimant had emerged in Scotland: Salmond was now litigating with Mark Ker, son of Sir Andrew Ker of Cessford. On 27 September, Salmond resigned in favour of Ker in

²⁰⁵ 2 Aug. 1536 (Reg. Supp. 2220, f.152^v-153^v); see above, p.124-6.

²⁰⁶ 24 Oct. (Reg. Supp. 2228, f.156-156^v); Provision (Reg. Lat. 1681, f.321-322; Reg. Vat. 1527, f.301-302^v).

²⁰⁷ Bonar (Reg. Supp. 2227, f.144-144^v); Salmond (Reg. Supp. 2263, f.102^v); Stevenson (Reg. Supp. 2231, f.87-87^v).

²⁰⁸ 8 Jan. (Reg. Supp. 2233, f.277^v-278; PRO 31/9-33/53); 26 Jan. (PRO 31/9-33/35-6).

²⁰⁹ 17 January, in a petition giving the cause of voidance as resignation, but proposing the death of John Douglas 'senior' as an alternative reason for the vacancy (Reg. Supp. 2234, f.241-241^v); 23 April (Reg. Supp. 2306, f.93-93^v).

return for a pension of 80 merks Scots.²¹⁰ Ker's main opponent in reality was clearly Douglas, with whom he was litigating on 6 October, when he again sought provision to the precentorship.²¹¹ The dispute may have continued in Scotland but lay dormant at Rome for almost ten years, during which time Ker presumably retained possession until, in 1547, the dispute with Douglas suddenly re-emerged at the curia. On 25 November, John Douglas yielded his right in the benefice in favour of Ker in return for an annual pension of 40 merks Scots.²¹² Mark Ker in fact only retained the precentorship until he received the commend of Newbattle in the following month, when he resigned in favour of William Adamson, whilst retaining the fruits of the dignity.²¹³ Although the occurrence of the vacancy in a reserved month had provided an opening for litigation by both Salmond and other procurators, the real dispute had involved Ker and Douglas. Nevertheless, Salmond's intervention had caused enough disturbance for Mark Ker to find it useful to buy off his opposition with a pension.

His second attempt to acquire a cathedral dignity occurred in July 1541 when he sought the chancellorship of Aberdeen on the death of John Reid, the previous holder in that month.²¹⁴ James V

²¹⁰ PRO 31/9-33/90-91. A resignation on that date by J.S. in favour of 'W.R.' has been noted, with the appointment of procurators for reservation of a pension of 80 merks to Salmond (St. A. Form., ii, 56-57). Although William Robeson appears fleetingly in a 1538 petition (see note 213), it appears almost certain that Salmond's resignation was in fact in favour of Ker, given the coincidence of both date and the size of the pension. For Ker, see Scots Peerage, v, 453.

²¹¹ Reg. Supp. 2308, f.87-87^V.

²¹² 25 Nov. (Reg. Supp. 2621, f.130^V-131). Pension to Douglas (Reg. Lat. f.7^V-9^V).

²¹³ 5 Dec. (Reg. Supp. 2642, f.230^V); Provision of Adamson (Reg. Lat. 1794, f.259^V-261).

²¹⁴ For the background, see Fasti, 14; see also above, p.124.

in fact claimed in a letter on 14 February 1542 that men at Rome had been seeking it during Reid's last illness.²¹⁵ It is noticeable that James's concern in this letter was not simply with the impropriety of seeking benefices while the holder was still alive, the point with which the letter opens, but probably more significantly with the desirability of avoiding litigation at Rome against the local candidate, which could result in a drain of money from the country. There is, in fact, no evidence that James's initial accusations against the Scots at Rome were justified, for the first petition actually post-dates Reid's death and indeed describes the death in a reserved month as the reason for the petition. This was made by William Meldrum who sought provision to the chancellorship on 8 August 1541;²¹⁶ Salmond followed rapidly with a petition on 16 August, and he received provision.²¹⁷ It was recognized, however, in the petition and the bull of provision that George Marschell was in possession of the chancellorship. It was this George Marschell who was given royal nomination in the letter of 14 February where the king also stated that Marschell had ordinary provision and complained that 'the seeking of benefices would fatally injure the church.'²¹⁸ Marschell was a Treasury official in the 1530s, and is recorded as an auditor of the Treasurer's accounts in September 1541.²¹⁹ Two other applicants, however, also petitioned for provision to the dignity on the same day as Salmond: Henry Balfour who, although he was a royal chaplain, does not appear to have had any visible support from

²¹⁵ James V Letters, 436.

²¹⁶ Reg. Supp. 2434, f.218^v.

²¹⁷ Reg. Supp. 2429, f.132^v-133; Provision (Reg. Vat. 1590, f.45-46^v).

²¹⁸ See n.217.

²¹⁹ RMS, iii, no.1629; Treasurer Acts, VIII, 1, 162.

the king for his petition,²²⁰ and George Stewart, a clerk of Glasgow diocese.²²¹ These two litigants did not, however, figure again in the ensuing litigation. Marschell himself sought a new provision on 14 May 1542, to confirm the possession which he stated he had already obtained by ordinary authority.²²² Marschell seems to have been fending off challenges on two fronts, from Meldrum in Scotland and from Salmond in Rome. In July, James V wrote to the Cardinal of Carpi, ignoring Salmond completely, asking that William Meldrum's right be transferred to Marschell.²²³ Meldrum came of the family of Meldrum of Fyvie, and he may also have been a pensioner of the earl of Arran.²²⁴ Salmond, was a persistent litigant, however, and on 17 July, he obliged himself for the annates of the chancellorship, though admitting that Marschell was in possession.²²⁵ Any real threat to Marschell's actual possession probably came from Meldrum and the first efforts to end litigation would be concentrated there. On 30 August, Meldrum agreed to yield in favour of Marschell in return for a pension of 40 merks Scots per annum.²²⁶ A new competitor, John Elphinstone, canon of Aberdeen, appeared in January 1544, recognizing Marschell, Meldrum and Salmond as his opponents.²²⁷ It is not clear how serious this claim was ever expected to be, for three days later he resigned in favour of Salmond and, according to the

²²⁰ Reg. Supp. 2435, f.8^v.

²²¹ Reg. Supp. 2433, f.242^v.

²²² Reg. Supp. 2455, f.256-256^v.

²²³ 8 July (James V Letters, 440-1).

²²⁴ Temple, The Thanage of Fermartyn, 22-4; Mary of Lorraine Correspondence, 77n.

²²⁵ PRO 31/9-33/140.

²²⁶ Reg. Supp. 2469, f.194^v-195^v.

²²⁷ 7 Jan. (Reg. Supp. 2503, f.40-40^v).

petition, William Meldrum supported the request for Salmond's provision. Salmond was willing to pay annual pensions to both of them to buy off this opposition.²²⁸ He never actually had to pay, since Marschell remained firmly entrenched in possession of the chancellorship. He clearly felt it worthwhile, however, to establish his authority for possession by restating the details of his case once more at the curia. Having sought a new provision in April,²²⁹ he retained possession until his death sometime in 1547, despite several attempts by Salmond to oust him.²³⁰ As a result of this persistence, the litigation was kept alive at Rome and, although this may not have been any hindrance to Marschell, he took the precaution shortly before he died of seeking provision again on 6 July 1547, arising out of Meldrum's cession of any right to the dignity in his favour.²³¹ Undeterred however, Salmond petitioned in October for provision by surrogation in George's right after his death.²³² This final flourish was unsuccessful since, after a short dispute between the Gordon family and Alexander Seton, Alexander bought off William Gordon with an annual pension of 100 merks Scots and sought provision in early 1547.²³³ Salmond's determination suggests he seriously hoped to obtain the chancellorship rather than simply to gain a pension on the fruits. Whatever the motive, Marschell's appointment by the bishop despite the date of his predecessor's death, and presumably his

²²⁸ 10 Jan. (Reg. Supp. 2503, f.40).

²²⁹ 27 April (Reg. Supp. 2511, f.83^v-84).

²³⁰ 8 Sept. 1544 (Reg. Supp. 2525, f.281^v); 30 Dec. 1545 (Reg. Supp. 2588, f.116-116^v); 23 May 1546 (Reg. Supp. 2587, f.167).

²³¹ Reg. Supp. 2608, f.213^v.

²³² 12 Oct. (Reg. Supp. 2618, f.173^v).

²³³ 5 Nov. 1547 (Reg. Supp. 2637, f.27^v); 15 March (Reg. Supp. 2658, f.123).

possession of the benefice by virtue of his presence in Scotland proved decisive, and a compensatory pension was only required to satisfy another local petitioner.

The succentorship of Glasgow was the third dignity which James Salmond tried to secure. It was held in 1539 by John Douglas who had petitioned for provision as long before as February 1536, claiming that Robert Clerk, the previous incumbent, was now dead.²³⁴ On 1 November 1539, however, Salmond sought provision, saying that Clerk had died in October.²³⁵ In the light of this, and a supporting entry in the Glasgow episcopal records,²³⁶ it seems likely that Douglas's claim that Clerk had died in 1536 was premature. Salmond asked for a new provision on 14 November, claiming an expectative grace to the benefice by apostolic authority, and repeated his petition in December of the following year.²³⁷ Douglas however retained the succentorship for some time thereafter. He is found, for example, involved in the cancellation of a pension to William Silver in April 1541,²³⁸ and probably held it for a short time thereafter. It was however in the hands of Archibald Dunbar before the middle of 1544.²³⁹

Another procurator, who expended much effort in trying to acquire the precentorship of Glasgow but with no success, was John Duncanson. This benefice had been acquired in 1509 by John Forman, who still had an interest in the benefice in 1543. Duncanson

²³⁴ 4 Feb. 1536 (Reg. Supp. 2203, f.10^v).

²³⁵ Reg. Supp. 2353, f.251-251^v.

²³⁶ Glas. Reg., II, 615.

²³⁷ Reg. Supp. 2355, f.35v-36v; 10 Dec. 1540 (Reg. Supp. 2394, f.19^v-20).

²³⁸ 5 April (Reg. Supp. 2417, f.119-119^v).

²³⁹ Fasti, 169.

appears to have begun litigating about the benefice in 1521 and, three years later, there was the first sign of government concern about his activity.²⁴⁰ Although he apparently resigned in favour of Alexander Hervy, another litigant in March of that year,²⁴¹ this was not effective. The opposition in Scotland to Duncanson's litigation did not disappear. On 9 January 1537, he was deprived by Gavin Dunbar, archbishop of Glasgow, who admitted Archibald Dunbar to the dignity, presumably to advance the interest of his own family.²⁴² Whether Duncanson ever obtained any financial benefit from the precentorship during this period is doubtful in view of the scale of this opposition. On 9 September, he was actually escheated because he, along with Alexander Hervy, had sought to purchase the archdeaconry of Moray at Rome, and crown presentation of the precentorship was made to John Bellenden.²⁴³ John Duncanson did not regard this as being in any way conclusive for on 16 November 1537, a bull granting a pension payable on the fruits of the benefice by Duncanson to John Forman was issued²⁴⁴ and, in January of the following year, he claimed in Rome that he was still in possession.²⁴⁵ Bellenden at this stage however seems to have been the effective holder of the dignity in succession to Archibald Dunbar, with whom he exchanged the archdeaconry of Moray late in 1538 or early the following year.²⁴⁶ John was clearly determined to retain the benefice

²⁴⁰ 31 Jan. 1524 (James V Letters, 97-98); see Fasti, 159 for the background; see also Bellenden, Chronicles, ii, 429-435.

²⁴¹ Fasti, 159.

²⁴² Bellenden, Chronicles, ii, 430.

²⁴³ RSS, ii, no.2368.

²⁴⁴ Reg. Lat. 1674, f.332-333.

²⁴⁵ 12 Jan. (PRO 31/9-33/75).

²⁴⁶ Fasti, 159, 242; see also Reg. Supp. 2617, f.147.

in the family, for on 14 May 1542, he resigned in favour of his eleven-year old nephew, Patrick.²⁴⁷ Eight days later, however, Patrick ceded the precentorship back in his uncle's favour, having established that he would get regress to the dignity in the event of John dying or ceding the benefice, and John was given provision.²⁴⁸ A further petition several months later, seeking prorogation of the provision, hinted that John was having some difficulty in persuading his nephew to relinquish the dignity but, given Patrick's age, this seems unlikely, and may conceal some other arrangement.²⁴⁹ In March 1543, John obliged himself for the annates of the precentorship, and Patrick at the same time obliged himself for the annates of regress.²⁵⁰ This retrocession is the explanation for the apparent confusion over which of the two Bellendens was in possession and resigning.²⁵¹ They may have felt that a double resignation of this kind would give greater security against the persistent litigation of such as John Duncanson. If so they were mistaken. Duncanson had still not given up hope of obtaining the dignity. Only on 3 September 1544, near the end of his life, did he cede his right in the benefice, and then it was in favour of another procurator, William Fogo.²⁵² Although Duncanson died soon afterwards, the dispute concerning the precentorship continued at Rome. On 4 September, Fogo in turn yielded the dignity in favour of

²⁴⁷ Reg. Supp. 2454, f.108^v.

²⁴⁸ 22 May (Reg. Supp. 2455, f.207^v-208); Provision (Reg. Lat. 1735, f.55^v-57); Bull of regress to Patrick (Reg. Lat. 1735, f.57^v-59^v).

²⁴⁹ 27 Sept. 1542 (Reg. Supp. 2469, f.208^v).

²⁵⁰ 1 March 1542 (PRO 31/9-33/144); Patrick's obligation for annates of regress (PRO 31/9-33/143).

²⁵¹ *Fasti*, 159-60; Bellenden, *Chronicles*, ii, 433.

²⁵² Reg. Supp. 2523, f.206^v-207; PRO 31/9-33/171.

yet another of the Scots at Rome, John Stevenson, while retaining the right of regress.²⁵³ In October, another competitor, David Methven, appeared briefly, but he yielded his right in the precentorship in February 1545.²⁵⁴ The main dispute lay between Stevenson and Bellenden, who had now come out to Rome to defend his possession of the dignity.²⁵⁵ Stevenson twice petitioned for possession in early 1545, claiming on 20 January that Bellenden had intruded in the benefice.²⁵⁶ As a result of the second petition, which was associated with Methven's cession of his rights, Stevenson received papal provision and, on 3 March, promised the annates of provision.²⁵⁷ Another of the Scots at Rome, David Bonar, took advantage of the convoluted litigation to put forward a claim of his own in April, petitioning for and obtaining, papal provision to the precentorship.²⁵⁸ On 30 March 1546, however, he ceded his right to it in favour of Stevenson.²⁵⁹ Independently of this intervention, the primary dispute between Bellenden and Stevenson continued, Stevenson seeking prorogation of his provision because of Bellenden's intrusion on 23 April 1545, and Bellenden seeking a new provision for two years later.²⁶⁰ By November 1548, John Bellenden had died, for

²⁵³ Reg. Supp. 2523, f.196^v; retention of right of regress, 17 Nov. 1544 (Reg. Supp. 2556, f.69; PRO 31/9-33/176; PRO 31/9-66/291).

²⁵⁴ 14 Oct. (Reg. Supp. 2524, f.184-184^v); 20 Feb. (Reg. Supp. 2533, f.67).

²⁵⁵ Bellenden, *Chronicles*, ii, 434-5.

²⁵⁶ 19 Jan. 1545 (Reg. Supp. 2535, f.245-245^v); 20 Feb. 1545 (Reg. Supp. 2533, f.46^v-47).

²⁵⁷ 20 Feb. (Reg. Vat. 1613, f.103-105^v); PRO 31/9-33/166-167).

²⁵⁸ 16 April 1545 (Reg. Supp. 2553, f.250^v); Provision (Reg. Vat. 1653, f.5-5^v).

²⁵⁹ Reg. Supp. 2569, f.74-74^v.

²⁶⁰ Reg. Supp. 2537, f.218^v; 18 Oct. 1537 (Reg. Supp. 2617, f.147).

on the 7th of that month, both Stevenson and David Bonar were seeking provision to the dignity because of his death in a reserved month.²⁶¹ It is clear, however, that it was Stevenson who retained possession of the precentorship, once Bellenden died, having taken over from Duncanson as the main litigant amongst the Scottish procurators at Rome. The dispute is particularly interesting as an example of Duncanson's persistence in seeking benefices, as an illustration both of the litigation which was in progress at Rome during this period and the lengthy period over which it could be conducted, and because it indicates that, in certain circumstances, the determination of the resident Scots at Rome could eventually be rewarded with successful possession, as happened to Stevenson. Two features of this are of note. Firstly, Stevenson was able to achieve possession despite the double resignations of John and Patrick Bellenden in 1543, which failed to guarantee the succession; and secondly, that he was only able to do so once Bellenden, who had warded off threats to his possession for ten years, died in 1547. The case is also interesting as a particularly detailed example of the way in which the procurators were able to use the rules of reservation to suit their own purposes, though not always with success.

It has been suggested that the Indult of 1487 may have marked "a major departure from previous practice by sweeping aside the litigants whose causes had financially benefited the papacy."²⁶² The Indult, however, covered only a minority of benefices. The evidence of the petitions for the twenty years after 1530, coupled with that of the records of the Rota which have also been recently examined,

²⁶¹ Stevenson's petition (Reg. Supp. 2674, f.34^v-35); Bonar's petition (Reg. Sup. 2674, f.77).

²⁶² CSSR, iii, xxi.

together suggest that there was in fact a considerable amount of litigation at Rome regarding at least the cathedral dignities in Scotland during this period. Regardless of whether the volume of litigation was less than that before 1487, it was considerable enough to cause great concern both to James V and the Scottish government during Queen Mary's minority, in terms simply of the export of money, because of the exceedingly weak financial position of the Scottish crown at the time.²⁶³ The scale of the litigation is partly explained by the efforts of Scottish procurators to obtain benefices in order to support themselves financially, but much of it arose from disputes within Scotland which were taken to Rome by one or more of the litigants themselves. The opportunity for this clearly came from the rules of reservation and in particular those covering the date of death of the previous holder. The motivation for taking disputes to Rome is less clear, given the costs of doing so. It may be that the desire to strengthen the title to a dignity in any way was a major factor, and in some, but certainly not all, cases it achieved this successfully; there was probably also an element of basic conservatism, a desire to conform to practices established by many years of usage. These arguments are supported by the fact that members of noble and episcopal families were clearly willing at least to seek papal confirmation of their local provision to dignities, if not always, it would appear, to incur the cost of procuring a bull.

Factors other than the exercise of various rights of patronage, reservation and provision were also at work in determining appointments to these dignities. One feature of appointments to Scottish benefices during this period which has already been

²⁶³ W.S.Reid 'Clerical taxation', Cath. Hist. Rev., xxxv (1948), 130-3.

illustrated with regard to consistorial benefices is the extent to which particular families gained control of certain offices and were able to pass them from one generation to the next. It is clear from examination of the Vatican records that this same practice characterised some cathedral dignities. Two examples of this have been noted earlier. The deanery of Moray eventually passed to David Dunbar after the death of his uncle, Alexander Dunbar, in 1549, and he retained possession till the late 1550s.²⁶⁴ The Beaton's' retention of the archdeaconry of Lothian, has also already been discussed.²⁶⁵ Walter Beaton on that occasion passed on the dignity to his nephew, Alexander, the natural son of Cardinal Beaton, who retained the archdeaconry until 1584.²⁶⁶

Among the procurators at Rome, the Thornton family stand out in this particular respect. The subdeanery of Ross, for example, was acquired by John Thornton by 1536.²⁶⁷ He ensured that it would remain in his family's hands by resigning in favour of his nephew, James, on 13 August 1549, retaining however all the fruits and the rights of regress if James predeceased him or resigned the benefice.²⁶⁸ The other example of this concerned the precentorship of Moray. This was held by John Thornton until his death in 1565,²⁶⁹ by which time he had also secured the succession again for

²⁶⁴ Fasti, 221.

²⁶⁵ See above, 128-9.

²⁶⁶ Fasti, 314.

²⁶⁷ See above, 141.

²⁶⁸ Reg. Supp. 2672, f.75-75^v; correction of fruits (Reg. Supp. 2675, f.121^v-122).

²⁶⁹ See above, 142.

his nephew, James. This dignity thus remained in the Thornton family until the late 1570s.²⁷⁰

Three further cases, undiscussed as yet, illustrate the practice again. The Dunbars retained their hold on the succentorship of Moray from 1535 until 1589 in this way.²⁷¹ Patrick Dunbar resigned the dignity in favour of David Dunbar, while retaining all the fruits and the right of regress, on 13 July 1535; David was given papal provision, and Patrick obtained a bull of confirmation of his pension.²⁷² David then sought a new provision in September, and appears to have held the succentorship until 1543.²⁷³ In January of that year, he in turn resigned in favour of Alexander Dunbar, son of the former dean of Moray.²⁷⁴ Four years later, the process was reversed, when Alexander yielded his right in the benefice in favour of David on 20 September 1547, while retaining for himself the right of regress as David had formerly done.²⁷⁵ David was given papal provision to the dignity, and Alexander at the same time received confirmation of this right of regress.²⁷⁶ This long drawn-out retrocession enabled the Dunbars to retain the dignity for many years after 1547.

²⁷⁰ Fasti 225.

²⁷¹ Fasti, 237.

²⁷² Reg. Supp. 2180, f.94-95; Provision (Reg. Lat. 1632, f.206^V-208); Reservation of fruits (Reg. Lat. 1631, f.83-85). The Dunbars promised the annates of provision and reservation of the fruits on 10 September (PRO 31/9-33/12, PRO 31/9-33/11-12).

²⁷³ 25 Sept. (Reg. Supp. 2189, f.219-219^V).

²⁷⁴ 14 Jan. 1543 (Reg. Supp. 2478, f.21-21^V).

²⁷⁵ Reg. Supp. 2619, f.98-98^V.

²⁷⁶ Provision (Reg. Lat. 1770, f.290-292); Right of regress (Reg. Lat. 1791, f.29^V-31^V). See Fasti, 237, where the names are transposed.

Similarly, the Arnots retained possession of the archdeaconry of Galloway from 1529 until 1575, by use of the device of *resignatio in favorem*.²⁷⁷ Patrick Arnot, who had held the dignity since 1529, yielded his right in the benefice in favour of Andrew Arnot, his nephew by his natural brother, in January 1543.²⁷⁸ He was, however, to retain all the fruits and the right of regress to the archdeaconry and, on those terms, Andrew was given papal provision and Patrick's pension and right of regress were confirmed.²⁷⁹ Patrick appears to have retained the benefice until 1575 despite the attentions of at least one competitor, William Blair, in 1543.²⁸⁰

The third case arose out of William Gordon's promotion to the bishopric of Aberdeen in 1545. He was succeeded as chancellor of Moray by James Gordon, brother of George, earl of Huntly and therefore William's nephew,²⁸¹ who took his oath to the bishop of Moray in April 1547.²⁸² He continued to hold the dignity until 1564,²⁸³ but does not appear to have received papal confirmation of his possession. The holding of the chancellorship of Moray by four Gordons in succession - William and James, then Robert and Alexander - is striking evidence of the strong hold exercised on the church in this area by that family.

²⁷⁷ Fasti, 138.

²⁷⁸ 29 Jan. (Reg. Supp. 2487, f.224-224^v).

²⁷⁹ Provision (Reg. Vat. 1603, f.45-46); Pension and right of regress (Reg. Vat. 1603, f.46-47). They obliged themselves for the annates of provision and reservation of the fruits on 14 October (PRO 31/9-33/146; PRO 31/9-33/145-6).

²⁸⁰ 24 Oct. 1544 (Reg. Supp. 2524, f.189-189^v).

²⁸¹ Mary of Lorraine Correspondence, 118, n.5.

²⁸² Moray Reg., 428, no.468.

²⁸³ Fasti, 228.

In two instances, however, attempts to achieve this objective of transferring a benefice within a family met with less success. Prior to William Gordon's appointment as chancellor of Moray, the Erskine family tried to retain its hold on the chancellorship after John Erskine obtained the dignity as a result of a resignation in his favour by Walter Maxwell on 30 May 1535.²⁸⁴ Erksine petitioned for a new provision to the benefice on 19 August.²⁸⁵ Two years later, and with the goodwill of James V,²⁸⁶ he sought an exchange of benefices with Robert Erskine, prior of Inchmahome.²⁸⁷ Robert was indeed given papal provision to the chancellorship²⁸⁸ and, on 30 September, sought correction of an error in the amount of the fruits.²⁸⁹ However, in his case, the benefice only remained in the family's hands until 1540, when William Gordon obtained it.²⁹⁰ There is no indication in the Vatican records examined here, as to how the Erskines 'lost' the dignity.

An attempt to transfer possession of the treasurership of Dunkeld between members of a branch of the Hamilton family also met with only short-lived success. David Hamilton, who had obtained the dignity in 1545, resigned it in favour of John Hamilton, son of David Hamilton of Bothwellhaugh, on 25 June 1547.²⁹¹ The following day, however, John ceded his right back in favour of David, while

²⁸⁴ Reg. Supp. 2177, f.61-61v.

²⁸⁵ Reg. Supp. 2186, f.13-13v.

²⁸⁶ 13 Nov. 1537 (James V Letters, 338).

²⁸⁷ 28 March 1538 (Reg. Supp. 2285, f.123v-125).

²⁸⁸ Reg. Lat. 1685, f.280^v-282.

²⁸⁹ Reg. Supp. 2304, f.213^v-214^v.

²⁹⁰ Gordon had obtained by 22 July 1540 (Reg. Supp. 2384, f.101-101^v).

²⁹¹ Reg. Supp. 2609, f.13.

retaining the right of regress, and both these received papal approval.²⁹² This retrocession was presumably intended to ensure a smooth succession between the two Hamiltons by strengthening this hold on the treasurership. If so, they were soon to be disappointed because, late in 1549, John Hamilton resigned and, the see being regarded as vacant, John Moncreif, son of William Moncreif of that Ilk, was given royal presentation to the dignity.²⁹³ All Hamilton interest in the treasurership seems to have disappeared thereafter.

The picture of appointments to the cathedral dignities painted by this survey is rather more complicated than that of appointments to the bishoprics and monastic houses. With the deaneries, as might be expected from their position as falling within the terms of the Indult, the pattern is relatively similar to that of the major elective benefices. Royal control was dominant when the crown chose to exercise it, if not wholly unchallenged. Both the royal family and the Hamiltons, and also royal officials and their families benefited from this. Under the earl of Arran, however, the government did not always choose to use its power, and some promotions were made without crown presentation or explicit support, presumably reflecting more local interests. In contrast to the consistorial benefices, Arran faced less opposition to his (admittedly fewer) nominations than did James V.

²⁹² Reg. Supp. 2619, f.15-15^v; Provision (Reg. Lat. 1789, f.347^v-348^v; Confirmation of right of regress (Reg. Lat. 1789, f.348-349^v). The Hamiltons promised the annates of provision and of regress respectively on 13 July 1548 (PRO 31/9-33/239; PRO 31/9-33/239-40). See also *Fasti*, 115, where the names are transferred.

²⁹³ 6 Oct. 1549 (*RSS*, iv, no.445).

Appointments to the other dignities, however, were made under different conditions. The external pressures on such appointments came from three conflicting sources. In the first place, the crown had the right to present to benefices in ecclesiastical patronage during a vacancy in any see. On the other hand, the papacy had a right to provide to a dignity which became vacant during any of the reserved months. The combination of these gave considerable scope for disputes, especially when seen against the third element, namely that the patronage of such benefices rightfully lay with the bishop.

There is considerable evidence of royal interest in these dignities arising in some cases from these crown rights, in some from personal interest in the nominees, and in others from a desire to reduce the drain of revenue to the papal curia resulting from litigation. These personal and financial factors may go some way towards explaining why the crown sometimes intervened when it had no right to do so.

At the same time, the proper claims of the episcopate and the influence of certain noble families could not only be potent threats to royal authority, but also, in the case of the episcopate, a major influence on appointments to the lesser dignities in its own right.

Nevertheless, the evidence of these records is clearly that only on a very few occasions was a bishop able to appoint to a lesser dignity without hindrance. More commonly, the clash between the three potentially conflicting rights led to disputes between the crown and bishops, the crown and nobility, and between claimants who cannot be definitely associated with any of these potential patrons, and all this was reflected in considerable litigation at Rome. Much of this was clearly instigated by the Scottish procurators at the curia, seeking either the benefices themselves or pensions as the price of dropping their claims; other disputes, however, came to Rome simply

because of the chancery rules regarding the date of voidance. The threat from Rome therefore lay primarily in the scale of the financial drain on money from Scotland to the curia in pursuit of these claims. Notwithstanding the considerable scale of litigation, it was only relatively rarely that a claimant who was not resident in Scotland successfully obtained one of these dignities. A further stage along this road of local control is represented by the extent to which certain families were able to secure the succession to particular benefices within the family.

The dignities were, in essence, simply the principal prebends within the secular cathedrals. It would therefore be reasonable to expect appointments to these lesser canonries to exhibit similar characteristics and it is to these that we now turn to see whether this is indeed the case.

CHAPTER 5

THE CATHEDRAL PREBENDS

The conclusion which clearly emerges from the foregoing examination of appointments to benefices in the upper reaches of the clerical hierarchy is that, amid the conflicting claims of patronage, provision and reservation, the crown was usually able to exercise firm oversight over such appointments when it was determined to do so. Indeed, when crown rights were clearly applicable in any vacancy and were not disputed, appointments were made by the crown or with royal support without any reference to Rome at all. Notwithstanding this control, litigation at Rome continued unabated and on occasions even involved the crown, which was anxious not only to oversee these appointments but also to curb the flow of money which the legal processes in the Rota and other apostolic courts involved. When required, the crown was able to justify intervention in bishoprics, monastic houses and deaneries by citing the Indult. With lesser dignities, covered by the rules of reservation, it had to rely primarily on peripheral rights which were dependent on episcopal vacancies, but which appear to have been extended by the crown according to circumstances. These same rights applied to cathedral prebends, offering scope for crown intervention in similar style; equally, the rules of reservation offered considerable scope for petitions to be made, and disputes carried, to Rome.

In the period under consideration, there is only one case of a dispute involving a cathedral prebend in which the papacy may conceivably have been involved directly, and even this is not certain. The papacy's support for Robert Wauchope has already been noted,¹

¹ See above, p.57-60.

and an opportunity to maintain this support arose over the prebend of Ruffil in the cathedral of Dunkeld, a benefice maintained from temporalities, which had been held by another member of the family, David Wauchope, in the early years of the century.² In 1542, Robert, by then holder of the prebend, attempted to resign it in order to enable his nephew, Henry Hay, to succeed and the latter in consequence obtained papal provision.³ Two years later, Henry was said to have died at the curia, and Wauchope again successfully sought provision.⁴ Whether in fact he was receiving any fruits from the benefice is unclear because, when James Shaw was given royal presentation to the prebend in 1546, it was said to be vacant by the resignation of Gavin Hamilton.⁵ Wauchope responded to this challenge in September of the following year by seeking papal prorogation of his provision for a further year in order to oust an intruder, who was presumably Shaw.⁶ The situation in the next four years seems to have been confused, for two royal presentations were made. The first was to Robert Auchmowty on 19 December 1549, when Patrick Knox was named as the previous holder;⁷ the second was in June 1553 to George Fullarton, when Auchmowty was said to be resigning or exchanging the prebend with the vicarage of Dun, which Fullarton held.⁸ Whoever held it during that period, Auchmowty appears to

² Dunk. Rent., 325.

³ 3 Nov. (Reg. Lat. 1745, f.169^V-171^V).

⁴ 2 Aug. 1544 (Reg. Supp. 2517, f.54-54^V); Provision (Reg. Lat. 1748, f.337-338^V).

⁵ 14 June 1546 (RSS, iii, no.1718). This may have been an exchange with Shaw for a prebend in St. Salvator's College (RSS, iii, no.1716,1717). The see was technically vacant at this time.

⁶ 24 Sept. 1547 (Reg. Supp. 2618, f.288^V).

⁷ RSS, iv, no.517.

⁸ 28 June 1553 (RSS, iv, no.2041).

have emerged as the ultimate victor, for he is recorded as canon of Ruffil in November 1553.⁹ The important point is that Wauchope was clearly unable to sustain his claim to the prebend despite his provision at the curia, and any papal support which he may have had in this particular case

We should now turn to look at sources of patronage in Scotland. Although the crown's privileges did not extend to cathedral prebends in the normal course of events, a few such benefices were in royal patronage and, not infrequently, they could also fall into crown patronage when the see was vacant; there are several cases of royal nomination, many of which took place without any reference to Rome being made at all. Some of these were prebends remote from the centre of Scotland and royal presentation may have represented confirmation of a local choice rather than any conscious choice by the crown itself. The prebend of Sanday in the diocese of Orkney was probably one such. It was held prior to 1541 by Andrew Hall and, after his death, royal presentation, the see being vacant, was given to Thomas Richardson on 9 January.¹⁰ He was still in possession when Bishop Reid erected the new chapter in 1544, and probably held it much longer.¹¹

In the neighbouring diocese of Caithness, the prebend of Cannisbay probably falls into the same category. The Barclay family had held the parsonage since at least 1536 when William Barclay, who

⁹ 4 Nov. RSS, iv, no.2196.

¹⁰ RSS, ii, no.3791.

¹¹ J.S.Clouston, Records of the Earldom of Orkney, (Edinburgh), 364-71.

had already obtained possession of the prebend by ordinary authority, sought a new provision from the pope.¹² After his death in 1547, however, the crown presented Hercules Barclay, his brother, to the prebend.¹³ The presentation did not state that the bishopric was vacant, although it was at this time in dispute between Robert Stewart and Alexander Gordon, a situation usually regarded as *sede vacante* by the crown. There is no other evidence that it was in royal patronage. Barclay is said to have retained the prebend until some time before 1572,¹⁴ though a Henry Barclay who witnessed an instrument at Holyrood in 1559, was described there as 'rector of Cannisbay'.¹⁵ Henry and Hercules may in fact be one and the same. In any case the family did retain the prebend from 1536 to 1572.

On two occasions during this period the prebend of Duthil in the diocese of Moray received a new holder by royal presentation, the canonry by this time being in royal patronage.¹⁶ On 8 August 1540, William Erskine was presented to the prebend, said to be void by the resignation of George Clapperton.¹⁷ Erskine may have been a member of the family of the chief secretary, Thomas Erskine, but this can be only a matter of conjecture. Five years later, after Erskine was said to have yielded his right in the benefice or exchanged it, William Gordon was presented to the vacant prebend by the crown in April 1545.¹⁸ Although Arran on several occasions found it prudent

¹² 31 Jan. 1536 (Reg. Supp. 2201), f.131.

¹³ 8 Oct. (RSS, iii, no.2485).

¹⁴ Haws, Scottish Parish Clergy, 35.

¹⁵ Prot. Bk Gilbert Grote, no.177.

¹⁶ Cowan, Parishes, 56.

¹⁷ RSS, ii, no.3608.

¹⁸ 20 April 1545 (RSS, iii, no.1126).

to present members of the Gordon family to benefices in this area to mollify this important rival family, it may be equally accurate to see this presentation as arising from the fact that the Gordons held the chancellorship of Moray, and were thus in a good position to acquire further benefices within the chapter. Gordon held the prebend until he became chancellor of Dunkeld in 1553.¹⁹

The parsonage of Crimond, a prebend of Aberdeen, was transferred from one member of the Taillifier family to another in 1538 by royal presentation. The prebend had been held by Laurence Taillifier who was a royal secretary. On 4 October in that year, Arthur Taillifier was given presentation by the crown on the vacancy of the prebend by death or resignation of Laurence.²⁰ It is not clear why crown presentation was made, since William Stewart, the royal treasurer, was bishop at the time, and no reason was given why presentation should have fallen to the crown; there is certainly no indication that it was in crown patronage. Taillifier in fact retained the prebend until at least 1571, so the family held the benefice for a considerable time.²¹

The prebend of Balquidder in the diocese of Dunblane was given by royal presentation to James Rolland on 8 September 1545, the benefice having become vacant by the resignation of Robert Mason.²² As with Crimond, the bishopric was not vacant at the time, nor was the prebend in royal patronage, so there is no obvious reason why the crown should have become involved. Rolland was a pluralist on some scale: he was commissary-general of St. Andrews at

¹⁹ 18 June 1553 (RSS, iv, no.1997); 20 June (RSS, iv, 2007).

²⁰ RSS, ii, no.2737.

²¹ Haws, Scottish Parish Clergy, 52.

²² RSS, iii, no.1316.

this time,²³ as well as holding other prebendal and parish churches. He appeared again as canon of Balquidder in 1546, and died in possession before 1570, so this appointment was clearly successful.²⁴

In the neighbouring diocese of Dunkeld, the prebend of Craigie, one of several maintained from temporalities, was held by James Cottis who resigned the prebend in May 1544. William Chisholm was then given royal presentation to the benefice on 2 May, the see then being vacant and patronage thus lying with the crown.²⁵ The dispute over the bishopric of Dunkeld had begun shortly before. Chisholm was also parson at Glendevon in Dunblane diocese and was possibly the nephew of bishop William Chisholm and later succeeded him in that see, having retained Craigie up to the Reformation.²⁶

There are other cases where, while royal support is not explicitly stated, it may perhaps be reasonably assumed. An example of this is the vicarage of Aberlady in the diocese of Dunkeld. James Lyn resigned this prebend in September 1541, at which point David Paniter, a royal official, sought papal provision to it.²⁷ This was in fact part of a more complicated transaction by which, on 30 August 1542, David yielded his right in the prebend in favour of Lyn, whilst retaining the right of access to the prebend should it become vacant, and together they sought provision for Lyn.²⁸ It would appear that

²³ *Fasti*, 329,330; J.R.Todd 'Pre-reformation cure of souls in Dunblane diocese', *IR*, xxvi (1975), 29.

²⁴ *RMS*, v, 1274; Haws, *Scottish Parish Clergy*, 20.

²⁵ *RSS*, iii, no.739.

²⁶ M.J.Yellowlees 'The ecclesiastical establishment of the diocese of Dunkeld at the Reformation', *IR*, xxxvi (1985), 79.

²⁷ 25 Sept. (Reg. Supp. 2655, f.45).

²⁸ Reg. Supp. 2467, f.32-32^V; Provision for Lyn, 18 January 1543 (Reg. Lat. 1741, f.178-9); Reservation of access for Paniter (Reg. Lat. 1737, f37^V-38^V).

Paniter did eventually obtain the benefice again, since in 1549 he resigned the vicarage and William Cranston asked for papal provision.²⁹ Paniter obtained the bishopric of Ross in 1545 and was a royal secretary during Arran's governorship, so it would seem reasonable to suppose that the crown may have supported his successful provision to this prebend.

In one case dating from Arran's time as governor, although there was clearly an intention to use royal power to bring another prebend into the orbit of the Hamilton family, events did not quite work out in this way. In February 1546, William Crichton was stated to have resigned the prebend of Colstone in Aberdeen, and royal presentation, with the assent of the earl of Arran, was given in a letter to the pope to Robert Hamilton, parson of Polwarth, while the fruits and the right of regress were reserved to William Crichton, with an annual pension of £20 Scots for Henry Crichton, a kinsman of William.³⁰ The presentation stated that the prebend was in royal patronage, although no other evidence of this has been traced. William Gordon was not yet consecrated at this time, so crown rights *sede vacante* would apply. This presentation and the associated reservations were supported by a petition to Paul III on 26 April, when Robert was described as the son of a priest, and this was successful.³¹ In fact, although Robert Hamilton was described as parson of Colstone in 1547,³² Crichton appears to have lived longer than the Hamiltons expected, and probably retained the fruits until

²⁹ 14 Feb. 1549 (Reg. Supp. 2655, f.45).

³⁰ 8 Feb. 1546 (RSS, iii, no.1538).

³¹ Reg. Supp. 2571, f.279-279v; Provision (Reg. Vat. 1643, f.13-16); Reservation of fruits and regress for Crichton (Reg. Lat. 1775, f.187-189).

³² Aberd. Reg., ii, 319.

after the Reformation.³³ It was this rather than any positive intention which prevented the prebend coming fully into the hands of the Hamilton family.

In two cases of royal presentations, there is some evidence of confusion or disputes within the government which complicate the picture to a degree. The first of these concerns the appointment of a member of the Hamilton family during Arran's governorship to a prebend in the diocese of Aberdeen, the parsonage of Aberdour. The benefice had previously been held by James Leslie, natural brother of George, earl of Rothes. This family had been involved in the successful plot to murder Cardinal Beaton and, as part of the government's subsequent reprisals, Leslie was deprived of the prebend. On 20 August 1546, James Hamilton, son of Sir James Hamilton of Finnart, was given royal presentation as a result of the deprivation, and a further presentation was made on 21 September, when it was also stated that the see was vacant.³⁴ The family had somewhat mixed fortunes at this time. Sir James Hamilton, James V's Master of Works, was executed by the king on a charge of having plotted to kill him, although the action was probably taken more because of his wealth.³⁵ Under Arran, however, the family prospered and this presentation, together with the escheat of Leslie's goods which was granted to James Hamilton in November 1546,³⁶ was one result of this. Early in 1547, however, Andrew Whitelaw was given royal presentation, supposedly on Hamilton's resignation.³⁷ By this

³³ Haws, Scottish Parish Clergy, 45.

³⁴ RSS, iii, no.1850; RSS, iii, no.1900.

³⁵ Donaldson, Scotland, James V - James VII, 58-59.

³⁶ 29 Nov. 1546 (RSS, iii, no.2032).

³⁷ 26 Jan. 1547 (RSS, iii, no.2124).

time, it may be noted, William Gordon had apparently been consecrated as bishop and would properly hold the patronage. What this 'counter presentation' represents is not clear. Alexander Whitelaw of Newgrange was one of the group with the earl of Rothes supporting the English cause, and Andrew may have belonged to this family.³⁸ This is given added credence by the fact that Andrew Whitelaw was soon at the horn for his part in supplying Norman Leslie at St. Andrews and in the burning of St. Salvator's. James Hamilton was given escheat of all Whitelaw's goods and a further presentation to the prebend in July of that year.³⁹ He retained the parsonage until some time before 1 February 1549 by which time he was dead.⁴⁰ It is noticeable that whatever dispute is reflected in this series of presentations, there was apparently no attempt to carry it to the curia.

The other case of this kind was perhaps less significant, if only because it does not appear to have related to major political families as was the case with Aberdour. On 23 October 1542, the prebend of Dunnet in the diocese of Caithness, which was vacant by the death of James Menzies, was given by royal presentation, the see being vacant, to Robert Keith.⁴¹ Two weeks later, however, a second royal presentation was made to Thomas Menzies, son of Thomas Menzies of Pitfoddels, the same reason for the vacancy being given. Both of these were made just before the death of James V, and may reflect some confusion during this period. The final outcome is not certain, since no further reference to the prebend has been found.

³⁸ Mary of Lorraine Corresp., 184n, 277.

³⁹ 24 July (RSS, iii, no.2345); Presentation of Hamilton (RSS, no.2354).

⁴⁰ Presentation of David Carnegie, following Hamilton's death (RSS, iv, no.79).

⁴¹ RSS, ii, no.4946.

Since the presentation of Menzies was the second of the two and the prebend had previously been held by someone of that name, it may well be that Thomas Menzies was the successful candidate.⁴² If the two presentations actually reflect some dispute, there is no evidence that any attempt was made to solve it by appeal to the curia.

There were clearly several opportunities for the crown to exercise patronage in cathedral prebends, notably during episcopal vacancies. On at least three occasions, however, the crown intervened to make appointments when bishops were in full possession of the sees concerned and the crown did not apparently have any legal right to act in this way. In both circumstances, few of these appointments were taken to Rome for confirmation.

Just as procurators at Rome challenged certain crown nominees from outwith Scotland, so the crown also faced opposition on occasion from within the country. There is no coherent pattern to these challenges and they met with variable success.

The most obvious source of possible opposition was clearly the patron of the prebend. Such a case is illustrated by the dispute over the prebend of Lethnot in the diocese of Brechin. Three claimants for the benefice appeared during 1535 and 1536. David Cristison was the earliest of these in November 1535, when he claimed that collation had lapsed to the apostolic see.⁴³ A year later, however, Cristison described David Lindsay and Alexander Wood as his two adversaries in a dispute over the benefice, when he again

⁴² 7 Nov. (RSS, ii, no.4972). Thomas Menzies of Pitfodels was the comptroller for much of 1543, and the presentation may have represented a reward to the family for earlier service (Handbook of British Chronology, 3rd ed. 198).

⁴³ 28 Nov. 1535 (Reg. Supp. 2197, f.37^v-38).

asked for provision.⁴⁴ Since the patron was David Lindsay, lord of Glenesk and earl of Crawford, it is hard to believe that Lindsay was not his nominee. Wood, however, was the brother of David Wood, the comptroller, and he at least subsequently had royal support. Late in 1540, James V wrote to Cardinal Ghinucci, saying that Alexander was resigning in favour of David's son, his nephew Andrew. He implied in this letter that the patron was in favour of the appointment, and asked for papal approval.⁴⁵ It may be that James had persuaded the earl of Crawford to withdraw his nominee in favour of the king's candidate but, if so, it appears to have taken four years to achieve this end. Wood successfully retained the prebend until at least 1557, and was followed subsequently by John Lindsay, son of the earl of Crawford.⁴⁶

Although the crown was successful in this case, such an outcome was in no way certain. The Sandelands family had held the parsonage of Kiltearn, a prebend of Ross, for some time and, presumably in order to secure its hold on the benefice, Peter Sandelands resigned the benefice in November 1548 in favour of John Sandelands, who petitioned for papal provision, with reservation of the fruits for Peter and the right of regress for Peter on its voidance by whatever means.⁴⁷ The crown however made two attempts to break the family's possession: once in March 1549 before David Paniter was consecrated as bishop, when Arthur Hamilton was

⁴⁴ 1 Dec. 1536 (Reg. Supp. 2235, f.294^v-295).

⁴⁵ 15 Sept.1539 (James V Letters, 378).

⁴⁶ Haws, Scottish Parish Clergy, 160; Scots Peerage, iii, 29.

⁴⁷ 15 Nov. (Reg. Supp. 2661, f.10-10^v); Provision for John (Reg. Lat. 1798, f.43-44). John sought prorogation to cover himself for a change in circumstances on 3 February 1540 (Reg. Supp. 2661, f.11^v).

presented to the parsonage on the death of Peter Sandelands,⁴⁸ and again in May 1552, when the crown gifted the escheat of John Sandelands' goods to Hamilton, because John had been denounced as a rebel and put to the horn for non-production of his bulls for the prebend before the lords of Council.⁴⁹ These moves were not successful for John Sandelands continued to hold the prebend at the Reformation and indeed much later.⁵⁰

A further attempt by the earl of Arran to secure a prebend for a member of his family was apparently unsuccessful. The prebend of Petty in the diocese of Moray was in the patronage of James, earl of Moray and lord of Strathearn, James IV's illegitimate son.⁵¹ The prebend was, however, held by successive members of the Ogilvy family who had held the barony of Strathearn and the patronage of the prebend prior to the grant to James Stewart. In 1542, John Ogilvy and George Ogilvy had carried out a 'retrocession' of the benefice, claiming the assent of the earl of Moray, each in turn yielding in favour of the other and leaving John in possession.⁵² In October 1547, Arran presented his brother to the prebend while the earldom of Moray was vacant, stating that the last holder had died or resigned, and claiming that it was in royal patronage.⁵³ However,

⁴⁸ 19 March (RSS, iv, no.164). The see was said to be vacant; David Paniter was in possession, though probably not consecrated at the time.

⁴⁹ 24 May (RSS, iv, no.1606).

⁵⁰ Haws, Scottish Parish Clergy, 134).

⁵¹ Grant of the lordship of Strathearn, 13 May 1532 (RMS, iii, no.1166).

⁵² 19 June 1542 (Reg. Supp. 2457, f.271^V-272); 2 July (Reg. Supp. 2464, f.148^V-149); Provision to John (Reg. Vat. 1574, f.38-39^V); Right of access to George (Reg. Lat. 1734, f.45^V-47); Promise of annates of provision and regress, 17 and 19 Oct. (PRO 31/9-33/142-3).

⁵³ 20 Oct. (RSS, iii, no.2511).

Ogilvy appears to have retained possession for, in early 1549, he did resign, but in favour of William Gordon, a clerk of Moray diocese and described as the son of a priest, while retaining the fruits of the prebend and the right of regress.⁵⁴ The petition claimed that the Queen and the earl of Arran agreed to the resignation. Arran appears to have yielded in this instance to the force of physical possession and probably the strength of the Gordon family. This may have been associated with the grant of the earldom of Moray to George Gordon, earl of Huntly, which took place in February 1549.⁵⁵

The attempts to acquire these prebends can presumably be attributed to the desire of the Hamiltons to benefit their own family at the expense of local incumbents. In the case of the parsonage of Eddleston, which was a prebend of Glasgow, however, James V seems to have been concerned to ensure that the family of Gavin Dunbar, archbishop of Glasgow and patron of the benefice, should not suffer and therefore supported his nominee. The accounts of the dispute from the two contestants not surprisingly vary to some degree. Thomas Hay, dean of Dunbar, claimed that he had obtained the prebend after a dispute with John Sanquhar but, by 27 July 1539, he clearly felt that his position was so weak as to warrant a request for a new provision.⁵⁶ The King presented a rather different version when he wrote to Paul III in 1540. Although he did not mention the prebend by name, internal evidence indicates that the letter can only refer to the parsonage of Eddleston. He stated that Gavin Dunbar had given the canonry to his sister's son, Gilbert Kennedy, who was a student at Paris; Thomas Hay had appealed to the apostolic see and

⁵⁴ 3 Feb. (Reg. Supp. 2675, f.209^V-210).

⁵⁵ The Complete Peerage, ix, 181.

⁵⁶ Reg. Supp. 2345, f.162^V-163^V; a correction of details was made in a petition on 13 September 1539 (Reg. Supp. 2353, f.243).

had claimed there, as part of his case, that Gavin had promulgated statutes prejudicial to the Roman church. This may have aroused the king's ire, and although it is likely that the real cause of royal intervention was to lend support to his chancellor in the dispute, James hinted that the loyalty of the Scottish church was at stake when such accusations were made by litigants.⁵⁷ With the support of both the patron and the crown, it is perhaps strange that Kennedy was not successful. On 13 May 1540, however, Gilbert yielded his right in the benefice, and Thomas sought provision to the benefice.⁵⁸ In a concurrent petition, it was stated that Hay's claim on the benefice arose as a result of an arrangement for the archbishop to provide him to benefices up to the value of £400 Scots, in order to extinguish a pension of that value which was owed to him from the mensal table. This resulted in his receiving first the prebend of Renfrew and subsequently that of Eddleston.⁵⁹ This may suggest that Archbishop Dunbar was prepared to give some ground in order to rid himself of the pension. The parsonage remained in the hands of the Hay family, for Thomas resigned in 1543 in favour of his natural brother George Hay, who was one of Beaton's secretaries, and he retained it at the Reformation.⁶⁰

A successful campaign to resist royal wishes in a major diocese is rather unusual, especially when crown and patron were apparently united. In a remote diocese like Orkney, such an outcome is perhaps less so. When Alexander Craig, parson of Hoy died,

⁵⁷ 1 Feb. 1540 (James V Letters, 388-9).

⁵⁸ Reg. Supp. 2377, f.187^v-188^v.

⁵⁹ Reg. Supp. 2345, f.162^v-163^v; Reg. Supp. 2417, f.116^v-117; PRO 31/9-33/104-5.

⁶⁰ 19 May 1543 (Reg. Supp. 2485, f.148^v); Haws, Scottish Parish Clergy, 79).

Alexander Stevenson was given royal presentation to the prebend on 18 January 1541 during the vacancy in the see.⁶¹ However, Peter Houston, who occurred as official of Orkney in 1540, seems to have been claiming the prebend as well. In October 1542, Stevenson and Houston were in dispute over the parsonage, when Stevenson agreed to yield his right in the prebend in favour of Houston, in return for an annual pension of 10 merks Scots, and Houston petitioned for papal provision.⁶² This was successful, for Houston not only appeared as parson of Hoy when he became subdean in the new constitution of the chapter in 1544, but also retained it until 1564.⁶³

Although the crown could obtain the patronage of cathedral prebends in certain circumstances and was able to put forward nominees of its own as a result, if not always successfully, presentation to many of these benefices lay with the bishop in normal circumstances. Although no bishops' registers exist which would provide an organised administrative record of such appointments, as is the case in England, it is nonetheless possible to trace the hand of the bishop in several appointments or attempted appointments to prebends.

The prebend of Duffus in the diocese of Moray provides one example of this. On 23 June 1547, Paul III provided Patrick Hepburn as perpetual coadjutor to the incumbent, Alexander Sutherland, described as fifty-eight years old and ill. Alexander was to retain the title of canon, a seat in the chapter, all the fruits, returns and

⁶¹ RSS, ii, no.3802.

⁶² 5 Oct. (Reg. Supp. 2468, f.249^V-250); Petition for Alexander's pension (Reg. Supp. 2468, f.250-250^V).

⁶³ Clouston, Records of the Earldom of Orkney, 364-71; RMS, iii, no.3102; Haws, Scottish Parish Clergy, 107). Hay became the prebend of the subdean in 1544.

emoluments of the benefice, while Patrick was to be granted an annual pension of £80 Scots (roughly half the fruits) on the fruits.⁶⁴ Patrick was the son of the bishop of Moray, and presumably the appointment was made at his father's instigation. It was possibly expected that Sutherland would not live long, and that Hepburn would soon succeed him completely. If this was the case, father and son were to be disappointed. Although Patrick remained parson at least until 1557, Sutherland still had his third in 1561, and outlived Hepburn, who was dead in 1567; Alexander was described as patron of the parsonage and vicarage at the time of his own death prior to 1571.⁶⁵

Patrick Hepburn, bishop of Moray, was assiduous in his efforts to place his sons. The parsonage of Elgin was a mensal church, while the vicarage was a separate prebend. When John Innes, vicar of Elgin since 1535,⁶⁶ died with no date of death recorded, Patrick immediately sought the prebend for another son, William, in June 1547.⁶⁷ His petition, however, was not the first since, two days earlier, James Thornton had already petitioned for provision.⁶⁸ In addition, two other claimants soon appeared. John Stenhouse asked for provision on 27 June, when the date of Innes's death was given as May, but yielded any right in the prebend in favour of Adam Kingorne little over a month later.⁶⁹ James Thornton was also not

⁶⁴ Reg. Vat. 1649, f.13-18^v; 24 June (PRO 31/9-33/229-232; PRO 31/9-33/210). Hepburn obliged himself for the annates of coadjutorship, 3 August 1548 (PRO 31/9-33/243).

⁶⁵ Haws, Scottish Parish Clergy, 66.

⁶⁶ Reg. Lat. 1631, f.220^v-221.

⁶⁷ 25 June 1547 (Reg. Supp. 2608, f.130^v-131).

⁶⁸ 23 June (Reg. Supp. 2619, f.100-100^v).

⁶⁹ Petition by Stenhouse (Reg. Supp. 2611, f.222-222^v); Petition for Kingorne's provision, 8 August (Reg. Supp. 2610, f.250v-251); PRO 31/9-33/214.

easily discouraged from challenging the episcopal nominee: on 4 October, he sought prorogation of his provision for a further year beyond the normal time, in order to give him time to oust an intruder, who was presumably Hepburn.⁷⁰ It is clear, however, that none of the challengers were successful in preventing the bishop from installing his son in the prebend. William Hepburn successfully retained his hold on the benefice, and was described as deceased vicar in 1564.⁷¹

The family ties of a third Hepburn appointment to one of the prebends in Elgin Cathedral have not been confirmed. Alexander Hepburn, a clerk of Moray diocese, was appointed to the canonry of Rhynie by episcopal authority in 1539. In the summer of 1541, he sought a new provision to the benefice since 'some doubt the validity of this authority'.⁷² Although the petition makes no mention explicitly or implicitly of family links with Patrick Hepburn, bishop of Moray, the date of his appointment in the year following Patrick Hepburn's promotion to the bishopric makes it probable that he was related in some way. He held the prebend until 1547 when he resigned in the hands of the bishop who appointed John Lesley to the benefice.⁷³

Another Hepburn bishop, Patrick's cousin, John Hepburn of Brechin, had less success in trying to place a relative in the perpetual vicarage of Brechin, which was a prebend of the diocese.

⁷⁰ Reg. Supp. 2647, f.133^v-134.

⁷¹ An Adam Hepburn is described as vicar in 1554. This may be an error or may represent some kind of transfer within the family (Haws, Scottish Parish Clergy, 81).

⁷² 2 Aug. (Reg. Supp. 2427, f.300^v).

⁷³ Aberdeen-Banff Illustrations, ii, 179; Lesley asked for papal provision on 23 Feb. 1548 (Reg. Supp. 2628, f.179-180).

When William Meldrum died in August 1534, William Hepburn, the son of a priest, asked for provision on 3 November 1534,⁷⁴ it seems likely that he was both related to, and supported by, the bishop. However, Meldrum's death in a reserved month opened up the field for competition, and four other petitions were dated on that same day, from Patrick Liddell, John Lauder, a familiar of the king, and two from John Hay.⁷⁵ A bull has been traced only in response to one of these: John Hay was provided to the prebend.⁷⁶ Early the following year, a new litigant entered the fray. John Cockburn petitioned for provision on 12 January,⁷⁷ and his claim was given an element of support in that James V wrote to the Cardinal of Ravenna in early summer, stating that Cockburn, whom he said had been appointed by the ordinary, had assigned a pension of 80 merks to a royal familiar, David Cristison, with the assent of the bishop.⁷⁸ If Cockburn ever had possession, it may not have been very secure since, in October, it was John Hay and John Lauder who were litigating over the prebend, and the case went to the Rota.⁷⁹ Despite the King's letter to the Cardinal, there is little evidence that he was supporting Cockburn, and it seems likely that his concern was rather with securing the pension for Cristison. At the end of the day, the prebend appears to have been obtained by Hay, who was a nephew of

⁷⁴ Reg. Supp. 2187, f.258-258^v. The parsonage of Brechin was the bishop's own prebend.

⁷⁵ Liddell (Reg. Supp. 2157, f.81-81^v); Lauder (Reg. Supp. 2159, f.291^v-292; Hay (Reg. Supp. 2155, f.49^v-50; Reg. Supp. 2161, f.6^v).

⁷⁶ Reg. Lat. 1633, f.74-76.

⁷⁷ Reg. Supp. 2161, f.168^v.

⁷⁸ James V Letters, 291. Cristison was still seeking confirmation of this pension on 23 July (Reg. Supp. 2181, f.200^v).

⁷⁹ 29 Oct. (Reg. Supp. 2189, f.88^v); 19 Nov. (Reg. Supp. 2194, f.184^v-185).

David Beaton.⁸⁰ John Hay, canon of Brechin, witnessed a charter from David Beaton in October 1544,⁸¹ and appears to have retained the vicarage up to the Reformation.⁸²

The provision of Alexander Annand to the prebend of Forgandenny in Dunkeld Cathedral provides a further indication of limitations on episcopal power imposed by papal rights of reservation. Alexander resigned the canonry in January 1539 and the pope gave provision to James Lyn, with access reserved to Annand.⁸³ In the autumn of that year, it emerged that George Crichton, bishop of Dunkeld, had appointed William Crichton to the benefice. In a supplication of 2 September, it was stated that the appointment had been made on the death of James Lyn. The petition however stated that William Crichton and Alexander Annand, having brought the case before the bishop, had reached an agreement by which Crichton renounced his right in the benefice in favour of Annand, and they sought confirmation of this concord.⁸⁴ The provision of Annand almost three months later when it was said to be vacant by the resignation of Lyn, suggests that he successfully vindicated the right of access which the earlier agreement with Lyn had given him.⁸⁵

⁸⁰ Mary of Lorraine Correspond., 103,138.

⁸¹ 20 Oct. (RMS, iii, no.3029).

⁸² Haws, Scottish Parish Clergy, 31.

⁸³ 9 Jan. (Reg. Supp. 2314, f.263^V-264); Provision for Lyn (Reg. Lat. 1657B, f.238^V-240); Right of access for Annand (Reg. Lat. 1657B, f.240-241^V);

⁸⁴ Reg. Supp. 2346, f.36-37.

⁸⁵ 28 Nov. (Reg. Lat. 1693, f.132^V-134).

Whoever held the patronage of cathedral prebends, it was likely that local families, particularly those with significant power in the area, would be influential in the appointments made to these benefices. This indeed proved to be the case, though such influence sometimes met with opposition.

The earls of Caithness, for example, were from the Sinclair family and it was presumably this influence which ensured that the prebend of Orlig should remain in Sinclair hands in 1549. Royal presentation during the dispute over the bishopric was given to William Gordon, parson of Duthil, on 10 May 1547, when William Sinclair, the previous holder, was said to have died.⁸⁶ Gordon himself followed this up with his own petition to the pope in the following month.⁸⁷ In December 1548, however, he resigned in favour of William Sinclair, who claimed noble descent, a claim which gives credence to the suggestion of a link with the earls of Caithness.⁸⁸ Gordon's presentation and his subsequent resignation may well be linked with Alexander Gordon's unsuccessful attempt to obtain the bishopric. It was, however, Sinclair who secured the prebend, being described as parson of Orlig in the following year, and retaining it at the Reformation.⁸⁹

The prebend of Turriff in Aberdeenshire was even more directly under the control of a major family for, since 1450, the

⁸⁶ RSS, iii, no.2272. The see was technically vacant at this time since Robert Stewart and Alexander Gordon were disputing possession.

⁸⁷ 25 June (Reg. Supp. 2608, f.128^v).

⁸⁸ 9 Dec. (Reg. Supp. 2652, f.179^v-180).

⁸⁹ 6 Aug 1549 (Prot. Bk. Gilbert Grote, 1552-73, no.272); Haws, Scottish Parish Clergy, 193.

parsonage had been in the patronage of the Hays, earls of Errol.⁹⁰ When the prebend became vacant in October 1535 on the death of Alexander Hay, it was obtained by Alexander Lyon, precentor of Moray, at the presentation of the earl and with ordinary authority.⁹¹ Although he felt the need to ask twice for a new provision within the next three years,⁹² he in fact retained the benefice until his own death some time before June 1543. It was only at this stage that the rights of the patron were challenged in any way. Although a member of the Hay family, Thomas Hay, canon of Brechin, did petition for papal provision on 24 June, having already received episcopal approval, he reported in the petition a dispute regarding the case being heard before the bishop.⁹³ That this was indeed so, was confirmed by a petition dated the same day by John Erskine who also claimed that he had received the prebend by ordinary authority, and that the earl of Errol had not made a nomination within the required time.⁹⁴ This may or may not have been true, but it is clear that the rights of the patron were vindicated at least in the long run. The prebend was held in 1551 by Mr William Hay, presumably a member of the Errol family,⁹⁵ and this fits with the picture of the hold of the family on the benefice being quite strong.⁹⁶ This case provides an

⁹⁰ Cowan, Parishes, 202.

⁹¹ 30 June (Reg. Supp. 2179, f.284^v-285).

⁹² 28 May 1536 (Reg. Supp. 2224, f.27-28); 21 Sept.1538 (Reg. Supp. 2301, f.256-256^v).

⁹³ Reg. Supp. 2480, f.31^v.

⁹⁴ Reg. Supp. 2480, f.31^v-32.

⁹⁵ Haws, Scottish Parish Clergy, 240.

⁹⁶ In 1509, for example, the prebendary was another member of the family, John Hay (Aberd. Reg. i, 353).

interesting example of a challenge to a lay patron being taken, albeit unsuccessfully, to Rome.

The documents illustrating these cases either show or implicitly suggest the family connections of the holders. With other prebends, however, the connection is not so obvious. The prebend of Glasgow Secundo illustrates this point. This was resigned by John Sproule on 26 June 1547 in favour of John Houston.⁹⁷ Houston however yielded all right in the prebend in the hands of the pope on the same day, and Sproule asked for provision with the important proviso that access was reserved to Houston whenever the prebend subsequently fell vacant: both the provision and the reservation were then made.⁹⁸ Despite the resignation of the prebend, the intention, as illustrated by the reservation, was to strengthen the control of the Houston family on the benefice. At some later stage, the prebend duly returned to John Houston, and he was holding it in 1557.⁹⁹ The Houstons were a major Renfrewshire family,¹⁰⁰ and several members of the family held benefices within the diocese of Glasgow. James Houston was sub-dean and vicar-general of Glasgow from 1526-1550,¹⁰¹ and may have exercised some influence in this particular appointment. The name of master John Houston is associated with the vicarages of both Dunlop and Rutherglen in 1548.¹⁰²

⁹⁷ Reg. Supp. 2609, f.12^v-13.

⁹⁸ Reg. Supp. 2618, f.87; Provision (Reg. Lat. 1786, f.323-326);
Reservation of access (Reg. Lat. 1786, f.326-330).

⁹⁹ Haws, Scottish Parish Clergy, 97

¹⁰⁰ G.Crawford, A general description of the shire of Renfrew, including an account of the noble and ancient families (Paisley, 1818), 99-102.

¹⁰¹ Fasti, 168.

¹⁰² RSS, iii, no.2767,2790.

A further example, which illustrates the influence of a local family in such appointments, is found with the prebend of Kinkell in the diocese of Aberdeen. Alexander Galloway, who had held it since before 1526, resigned this benefice on 21 September 1540, when he petitioned, along with Henry Lumsden, that Henry be provided to the prebend, but that Alexander should retain the name of parson, have presentation to the pendicles of the prebend, a stall in the choir and, most significantly, should retain the fruits and the right of regress if the benefice should fall vacant, a request which was duly granted.¹⁰³ It is clear that Lumsden was ensuring his succession, while leaving the revenues of the prebend with Galloway, who himself was ensuring his own hold on the benefice should the arrangement not work according to plan. Alexander Galloway is found as prebendary in 1528, so he had held the benefice for some time.¹⁰⁴ The Lumsden family were landowners in the diocese. In 1564, Henry himself is found witnessing a charter of Margaret Lumsden, lady of Balgonie and Condlane, which suggests that he was a member of the family.¹⁰⁵ He was named as canon in both 1545 and 1566, although it is not clear when he first received the fruits.¹⁰⁶

The parsonage of Kincardine in the diocese of Moray appears to have been obtained by one of a family whose link with the area can only be traced in a similar indirect manner. It was held in 1535 by Thomas Craig, who was reported to be declared excommunicate in the Rota and ordered to vacate the churches in which he was intruded.

¹⁰³ Reg. Supp. 2396, f.159-161^v; Provision to Lumsden (Reg. Lat. 1722, f.13-14^v); Reservation of pension and right to regress to Galloway (Reg.Lat. 1714, f.56-59); a correction of fruits was sought on 9 August 1541 (Reg. Supp. 2428, f.237-237^v).

¹⁰⁴ Aberd-Banff Coll., 572; Aber. Reg., 255.

¹⁰⁵ 15 April (RMS, iv, no.1523).

¹⁰⁶ Haws, Scottish Parish Clergy, 139.

Although a Robert Hamilton sought provision to the benefice at that time,¹⁰⁷ this appears to have been unsuccessful, for two years later, John Craig was given royal presentation to the prebend, said to be vacant by the death of Thomas Craig just after the death of bishop Stewart.¹⁰⁸ This appointment was lasting, in that John Craig was still in possession in 1548.¹⁰⁹ In that year, Craig was a witness to a charter of Alexander Craig of Cragisfintray in the sheriffdom of Aberdeen to his nephew.¹¹⁰ It thus seems likely that he belonged to this north-east family, and it was through these local connections that he obtained the prebend.

The rights of reservation of benefices to the papacy brought many appointments made by patrons in Scotland and disputes over such appointments to the curia at Rome. Although, as has been shown at the beginning of this chapter, the papacy was unlikely to exercise personally its power of patronage in such circumstances, these rights, however, by bringing vacant benefices to Rome, provided an opportunity for the Scottish procurators at the curia to mount a significant challenge to local control of such appointments. If on occasions they might act on behalf of Scots permanently living at home, they were often more concerned about advancing their own interests.

One of these, John Thornton, had mixed success in his two attempts to secure cathedral prebends. The church of Ancrum in the

¹⁰⁷ 29 Nov. (Reg. Supp. 2194, f.270-270^v).

¹⁰⁸ 22 Dec. 1537 (RSS, ii, no.2412).

¹⁰⁹ Haws, Scottish Parish Clergy, 135.

¹¹⁰ 16 May 1548 (RMS, iv, no.208).

diocese of Glasgow fell vacant by the death of John Doby in September 1535. Though this was not a reserved month, a petition by Andrew Lockhart, probably a local nominee, on 9 November¹¹¹ provided a signal for the procurators to put forward their claims. James Salmond was the first to do so on the same day as Lockhart, claiming that John had died in October or another reserved month.¹¹² John Thornton quickly followed him with two petitions on 27 November and 30 December, on the second occasion stating that the previous holder had been Richard Bothwell (though Doby's name was mentioned as an alternative).¹¹³ Thornton appears to have been successful, because on 8 January 1537, Salmond, while claiming that he had obtained the benefice by apostolic authority on Doby's death, yielded his right in the benefice in favour of Thornton, who in turn claimed that he had obtained it by ordinary authority, a claim whose accuracy cannot be verified.¹¹⁴ Thereafter, the benefice remained in the family through to the Reformation. Thornton assigned all dues from the prebend of Ancrum, amongst several benefices, to his natural son, Henry and Bessie Chalmer, Henry's mother, on 4 March 1549.¹¹⁵ Later that year, he is recorded as having resigned the prebend in favour of his nephew by his natural brother, James Thornton.¹¹⁶ By this date, Thornton may have been in Scotland.¹¹⁷

¹¹¹ Reg. Supp. 2193, f.182.

¹¹² Reg. Supp. 2226, f.296.

¹¹³ Reg. Supp. 2196, f.294^v-295; Reg. Supp. 2207, f.253.

¹¹⁴ Reg. Supp. 2234, f.97-97^v.

¹¹⁵ Prot. Bk. Rollok., no.168.

¹¹⁶ 13 Aug. 1549 (Reg. Supp. 2675, f.137-137^v); James Thornton subsequently sought prorogation of the provision for 6 months on 18 October 1549 (Reg. Supp. 2675, f.278^v).

¹¹⁷ He was present at the Provincial Council in 1549 (Inchcolm Chrs., 200).

In that year too, he was denounced as a rebel and put to the horn for non-payment of his part of the £10,000 tax granted by the clergy (presumably the tax offered in 1543). Despite this, Thornton retained the prebend and was still in possession at the Reformation.¹¹⁸

Thornton was not so successful in his attempt to obtain the prebend of Kirkmichael in Ross. On the death of John Innes in a 'perhaps reserved month', Robert Marjoribanks was given royal presentation to the benefice on 24 May 1547, while the see was vacant.¹¹⁹ John Thornton did not take long to put forward his claim, seeking provision one month later.¹²⁰ There is, however, no evidence of his having any success at all: when Robert died the following year, royal presentation was made to Thomas Marjoribanks, described as the son of Thomas Marjoribanks, burgher of Edinburgh.¹²¹ Thomas Marjoribanks was still in possession of the prebend in 1586, having retained it through the Reformation period.¹²² Royal rights during episcopal vacancies easily withstood this challenge.

James Salmond, another of the Scottish procurators, met with no success at all in his attempts to obtain prebends, although in two cases he was able to force his adversaries to pay him a pension in order to rid themselves of his litigation. The dispute over the prebend of Botarie in Moray diocese stretched over three years after the death of John Sanquhar, who was a notary at the apostolic see in

¹¹⁸ RSS, iv, no.238; Haws, Scottish Parish Clergy, 11.

¹¹⁹ RSS, iii, no.2294. Paniter had not been consecrated.

¹²⁰ 25 June (Reg. Supp. 2619, f.11-11^v).

¹²¹ 16 Nov. 1548 (RSS, iii, no.3027).

¹²² Haws, Scottish Parish Clergy, 150.

1539. Salmond sought provision early in August,¹²³ but a month later James Strathauchin also did so, claiming that he had already obtained it by ordinary authority.¹²⁴ A third claimant, William Gordon, sought provision on three occasions shortly afterwards, stating that he already held it by apostolic authority.¹²⁵ Although Strathauchin claimed that Salmond had yielded his right in the benefice in his favour when he sought provision again on 20 June 1540,¹²⁶ this cannot have been so as Salmond was described early in August as being in dispute with Gordon, who petitioned for himself on that occasion.¹²⁷ Gordon, who was chancellor of Moray, had already sought a new provision on 22 July.¹²⁸ Despite the apparent strength of Gordon's position in the diocese, and a further petition made by him on 22 October,¹²⁹ it appears that the major dispute lay between Salmond and Strathauchin. In one of his petitions, Salmond named, as well as Strathauchin, three other adversaries, John Douglas, John Multram and James Kennedy.¹³⁰ Late in February 1541, Salmond eventually yielded in favour of Strathauchin, stating explicitly that he had obtained it by apostolic authority, while Strathauchin had been granted it by the bishop. They asked for provision for Strathauchin to the prebend, and for Salmond to receive a pension of £16 Scots a year, the annual value of the

¹²³ 6 Aug. (Reg. Supp. 2344, f.159^v-160).

¹²⁴ 2 Sept. (Reg. Supp. 2344, f.160-160^v).

¹²⁵ 19 Dec. 1539 (Reg. Supp. 2358, f.227-227^v); 3 Jan.1540 (Reg. Supp. 2359, f.251-251^v); 23 March (Reg. Supp. 2368, f.131).

¹²⁶ Reg. Supp. 2379, f.195^v-196.

¹²⁷ 6 Aug. (Reg. Supp. 2358, f.24-24^v).

¹²⁸ Reg. Supp. 2384, f.101-101^v.

¹²⁹ Reg. Supp. 2395, f.7.

¹³⁰ 31 Jan. 1541 (Reg. Supp. 2408, f.134-134^v).

benefice not exceeding £20 sterling.¹³¹ In none of the petitions is the date of Sanquhar's death given, and this may indicate that it did not occur in a reserved month. Whether this was the case or not, the dispute provides at least one instance where the bishop was able to ward off the claims of one of the procurators, albeit at the price of a pension. Strathauchin was also one of the royal secretaries in the late 1530s,¹³² and this status may also have assisted him in establishing a hold on the benefice. He remained in possession of the prebend at the Reformation,¹³³ and also managed to free the parsonage of the pension for Salmond by resigning the perpetual vicarage at Kiltarlity in favour of William Salmond, a natural brother of James, in February 1545.¹³⁴

In another attempt to obtain one of the Scottish prebends, Salmond challenged the control of the Stewart family over the prebend of Moffat in Glasgow diocese, but again had to be satisfied with just a pension. Salmond had been disputing Matthew Stewart's possession in October 1541,¹³⁵ but when Matthew assigned the benefice a year later, it was in favour of John Stewart; Matthew however retained the title, his stall in the choir, voice in the chapter, the fruits of the parsonage and the right of regress if the prebend should fall vacant, and on this basis, John was provided.¹³⁶ Given the terms on which the resignation and provision were made, it is

¹³¹ 22 Feb. 1541 (Reg. Supp. 2414, f.81-81^V).

¹³² James V Letters, 342.

¹³³ Haws, Scottish Parish Clergy, 28.

¹³⁴ 26 Feb. (Reg. Supp. 2535, f.153).

¹³⁵ 4 Oct. (Reg. Supp. 2535, f.109-109^V).

¹³⁶ 5 Nov. 1542 (Reg. Supp. 2470, f.91-91^V); Provision (Reg. Lat. 1603, f.43-44^V).

clear that the arrangement was designed to secure the succession rather than to make any immediate practical change in possession of the prebend. Salmond's claims, however, could not simply be ignored, and it was only by agreeing to pay him an annual pension of 20 *scudi* from the teinds that John Stewart was able to free the benefice from his attentions in September 1543.¹³⁷

James Salmond also sought the prebend of Dingwall at some time before April 1536, when he was said to have ceded his right in the parsonage in favour of another procurator, John Stevenson.¹³⁸ Stevenson himself petitioned for a new provision on 15 September 1539.¹³⁹ The succession was not, however, such a simple matter for, early in 1541, Salmond claimed that Stevenson had intruded himself in the benefice, and had sought provision.¹⁴⁰ In this case, he failed to sustain his challenge even against a fellow procurator, for it was Stevenson who retained Dingwall until his death in 1547, when Thomas Ker was given royal presentation to the prebend, the see being vacant.¹⁴¹

David Bonar was a third member of the group of Scots at Rome which was regularly litigating for prebends at the curia. He met with success in retaining the prebend of Brechin known as the pensionary despite a challenge to his claim. This benefice had been

¹³⁷ 4 Sept. 1543 (Reg. Supp. 2480, f.39-39^v). Stewart promised to pay the annates on 14 October (PRO 31/9-33/145).

¹³⁸ 5 April (Reg. Supp. 2212, f.43).

¹³⁹ Reg. Supp. 2345, f.114^v-115^v.

¹⁴⁰ 8 Jan. 1541 (Reg. Supp. 2408, f.129^v-130^v).

¹⁴¹ 6 Nov. 1547 (RSS, iii, no.2529); the prebend remained in dispute, however, because both Robert Fraser and John Campbell asked for papal provision early in 1548 (Reg. Supp. 2646, f.162; Reg. Supp. 2627, f.132).

in the hands of the Seton family since before 1536¹⁴² but, on 11 April 1540, John Seton resigned it in the hands of the pope, and Bonar sought and obtained provision.¹⁴³ Two months later, he sought prorogation of the provision for a further six months, on the grounds simply that the procedures could not be completed within the statutory time.¹⁴⁴ The real reason may have been that his possession was not absolutely secure, for a further claimant came forward in 1542. On 5 October, Thomas Huchesoun petitioned for a new provision, claiming that he had already obtained the prebend by ordinary authority and by resignation of George Wilson.¹⁴⁵ It took Bonar five more years to eliminate this challenge. Huchesoun may have been a local claimant, as is perhaps suggested by his assertion that he had episcopal backing; alternatively, this may have been a case fought solely at Rome, because Thomas Huchesoun may be identified with a cousin of John Duncanson of that name.¹⁴⁶ The dispute continued with a petition from Bonar in March 1543,¹⁴⁷ and two from Huchesoun later that year, in the second of which, Huchesoun described Bonar as having 'stolen the benefice'.¹⁴⁸ It was not until 1547 that the litigation appears to have ended and only

¹⁴² 5 April 1536 (Reg. Supp. 2210, f.271^V-272); 22 Dec. (Reg. Supp. 2231, f.129^V); 17 April 1537 (Reg. Supp. 2264, f.349^V-350); 20 April (PRO 31/9-33/81-2).

¹⁴³ Reg. Supp. 2377, f.64-64^V; Provision (Reg. Vat. 1554, f.325-325^V).

¹⁴⁴ 29 June (Reg. Supp. 2396, f.158^V).

¹⁴⁵ Reg. Supp. 2470, f.85^V.

¹⁴⁶ RSS, ii, no.2806n.

¹⁴⁷ 25 March (Reg. Supp. 2495, f.79^V).

¹⁴⁸ 19 July (Reg. Supp. 2480, f.189^V); 20 July (Reg. Supp. 2488, f.16-16^V).

then as a result of Huchesoun's death, when David Bonar asked to be surrogated to any right which Huchesoun had in the benefice.¹⁴⁹

Bonar had no such difficulties when he obtained the prebend of Fungarth in the diocese of Dunkeld, one of the prebends maintained from temporalities.¹⁵⁰ When Robert Crichton was promoted to the bishopric in late 1546, Bonar successfully sought provision from the pope.¹⁵¹

Another of the procurators, John Duncanson, showed himself to be one of the most assiduous benefice-seekers at the curia by his attempts to obtain the precentorship of Glasgow.¹⁵² He extended his efforts to cathedral prebends as well, though not always successfully. His attempt to secure the prebend of Monymusk in Aberdeen, for example, ended in failure. He obtained provision to the prebend on 3 November 1534, when it was said to be vacant by the death of Alexander Simpson.¹⁵³ In 1536, however, his claim was challenged by three other litigants, Henry Forsyth, John Hay and Patrick Dunbar. On 24 July, John Hay sought provision to the prebend *si neutri*, naming the other three as his opponents.¹⁵⁴ He may indeed have been successful at that stage, because he appeared witnessing a

¹⁴⁹ 17 Aug. (Reg. Supp. 2617, f.253).

¹⁵⁰ Dunk. Rent., 349.

¹⁵¹ 25 Oct. (Reg. Supp. 2586, f.279); Provision (Reg. Lat. 1770, f.334^v-335^v).

¹⁵² See above, 148-52.

¹⁵³ Reg. Vat. 1454, f.227-230. Duncanson's nephew, Donald, may have been contesting the prebend with Simpson since, when Duncanson obligated himself for the annates of provision on 19 February 1535, he stated that he was surrogate in Donald's right (PRO 31/9-33/3).

¹⁵⁴ Reg. Supp. 2218, f.15-15^v.

charter as canon of Monymusk in 1537.¹⁵⁵ Duncanson made one further attempt to secure the benefice in the summer of the following year when he sought provision, describing Forsyth as an 'intruder' and Hay as an 'asserted clerk', a common description of any opponent,¹⁵⁶ but clearly without any success. Despite any royal influence which may have been exercised in favour of Hay, who was a royal secretary,¹⁵⁷ Forsyth retained the prebend until January 1546, when Hay was given royal presentation on Forsyth's death, the see being vacant.¹⁵⁸ This was successful, and Hay was still in possession in 1554.¹⁵⁹ It is possible that John Hay is to be identified as David Beaton's cousin of that name. The fact that the church was in the patronage of the archbishop of St. Andrews might lend some support to this identification. Other than this speculative link, there is no evidence of the involvement of the patron.¹⁶⁰

Duncanson's most determined effort to obtain one of the cathedral prebends was made with the parsonage of Glasgow known as the prebend of Glasgow Primo, and represented the most substantial challenge to Scottish control of appointments to prebends made by any of the procurators. The motive behind Duncanson's activities appears to have been to ingratiate himself with John Dominic de Cupis, bishop of Ostia and Cardinal of Trani, and at the same time to secure possession of the prebend for his own family. Duncanson had

¹⁵⁵ Aber. Reg., ii, 112.

¹⁵⁶ 20 July 1538 (Reg. Supp. 2301, f.65^V-66).

¹⁵⁷ James V Letters, 233n.

¹⁵⁸ 4 Jan. (RSS, iii, no.1457).

¹⁵⁹ Haws, Scottish Parish Clergy, 184.

¹⁶⁰ I.B.Cowan, 'The medieval church in the diocese of Aberdeen. Northern Scotland, i (1972), 33.

originally obtained the parsonage in 1520, despite the protests of the dean and chapter.¹⁶¹ James V first challenged this possession in February 1533, when he supported David Beaton, who at that stage was trying to obtain the prebend for his brother, George Beaton.¹⁶² There is no sign that this had any effect, and it was not until 1536 that further action was taken against Duncanson. On 27 May, David Beaton himself sought provision to the prebend, said to be vacant by the death of his brother in the month of April. His subsequent request for prorogation of the provision for a year beyond the usual 6 months so that he could oust an intruder indicates that he was experiencing some difficulty in establishing his claim.¹⁶³ In January 1538, Duncanson made the first in the series of moves designed to improve his own and his family's position, when he resigned the prebend in the hands of the pope, and the Cardinal of Trani sought provision to the benefice *in commendam*.¹⁶⁴ The cardinal speedily yielded his right in the benefice later that month and, along with James Ard, who was Duncanson's nephew, asked that James be provided, whilst Trani retained the fruits and the right of regress, and other pensions were also promised.¹⁶⁵ Throughout this time, Duncanson had been outlawed within Scotland, having been convicted of barratry in 1529,¹⁶⁶ and the clergy of Glasgow had never accepted his claims to either the prebend or the precentorship. Later in 1538,

¹⁶¹ Bellenden, *Chronicles*, II, 430.

¹⁶² 7 Feb. (*James V Letters*, 236).

¹⁶³ Reg. Supp. 2217, f.123^V-124; Petition for prorogation, 24 July (Reg. Supp. 2227, f.101).

¹⁶⁴ 4 Jan. (Reg. Supp. 2269, f.62-62^V); 12 Jan. (PRO 31/9-33/75).

¹⁶⁵ 28 Jan. (Reg. Supp. 2272, f.133^V-134^V); Provision for Ard (Reg. Vat. 1504, f.15-17); Pensions to John Davidson and Alexander Harvey (Reg. Lat. 1680, f.343-345, 345^V-348).

¹⁶⁶ Bellenden, *Chronicles*, II, 429-430.

James V began to put pressure on Duncanson, when he wrote to the Cardinal of Carpi, asking him to prevent the transaction arranged in January from being completed, and putting forward the claims of Henry Sinclair, who had recently become one of the lords of Session. He said that Trani would never have acted in this way if he had known Scots law or Duncanson's character, and pointed out that the cardinal was not obtaining any financial benefit because the fruits of the prebend were not leaving Scotland.¹⁶⁷ Given the background, it is not surprising that James expressed himself forcefully on Duncanson's activities. In November 1538, while not classing him with the 'insignificant Scots, infamous and malicious', who brought their countrymen into court and ousted them or forced them to buy off their opposition by pensions, James painted a most unflattering picture of Duncanson training up 'a long troop of nephews for whose attacks on hapless beneficed men he has obtained the protection of the Cardinal of Trani'. He asked Paul III to persuade Trani to stop the transaction and to transfer the prebend to Henry Sinclair.¹⁶⁸ Sinclair himself sought papal provision on 1 December, stating that he had already obtained the parsonage by ordinary or apostolic authority.¹⁶⁹ Later that month, the patience of the crown seems to have been exhausted. John Duncanson was declared barrator by decree of the council and was put to the horn; his goods, and the fruits, rents teind sheaves and emoluments of Glasgow Primo were escheated, and James V assigned them to William Linlithgow.¹⁷⁰

¹⁶⁷ 5 Sept. (James V Letters, 350); see a letter of Secretary Erskine to Sixtus Zucchellus, 1 March 1538 (James V Letters, 344).

¹⁶⁸ 13 Nov. (James V Letters, 353-4); concurrent letters to the cardinals of Trani and Carpi, James V Letters, 354-5).

¹⁶⁹ Reg. Supp. 2313, f.232^v-233.

¹⁷⁰ 24 Dec. (RSS, ii, no.2806).

Sinclair was also admitted to the prebend on 18 December.¹⁷¹ The battle, however, continued with petitions early in 1539 from Andrew Beaton, possibly a relative of David Beaton, on 16 January, and from Sinclair, who claimed on 22 March that James Ard had resigned.¹⁷² It appears that Sinclair and the king may have tried to buy off Ard with the grant of the treasurership of Brechin, but apparently this was not adequate, for on 1 August, James was still writing to the Cardinal of Carpi and Cardinal Ghinucci asking them to support Sinclair against Duncanson.¹⁷³ In September, the Cardinal of Trani made his first recorded response to James, expressing a very different view of Duncanson as a man of venerable years, character and religious repute, 'universally liked at the court of Rome where he lives in honourable estimation'.¹⁷⁴ Following a further petition from Henry Sinclair for provision to both the prebend of Glasgow and the treasurership of Brechin,¹⁷⁵ James made a withering reply to Trani's support for Duncanson in November 1539: "When the cardinal writes of 'association' with such a man, James takes him to mean visual acquaintance with an inferior rather than a discriminating intimacy."¹⁷⁶ James's letters from then on became increasingly short-tempered. He threatened 'a new tack' in a letter to Cardinal Ghinucci on 11 December, although this was unspecified;¹⁷⁷ on 31

¹⁷¹ Bellenden, Chronicles, II, 431, n.2.

¹⁷² Beaton (Reg. Supp. 2318, f.76-76^v); Sinclair (Reg. Supp. 2353, v.110^v-111; PRO 31/9-33/93-4).

¹⁷³ See Sinclair's petition of 22 March and James V Letters, 375-7.

¹⁷⁴ 4 Sept. (James V Letters, 377-8).

¹⁷⁵ 7 Sept. (Reg. Supp. 2353, f.247-248).

¹⁷⁶ 8 Nov. (James V Letters, 381-2); see also his letters to Paul III and Cardinal Ghinucci (James V Letters, 380-1).

¹⁷⁷ James V Letters, 384.

July 1540 he stated that he regarded the whole transaction as a direct contravention of royal privilege, a claim which it might have been difficult to prove;¹⁷⁸ and twice claimed that Trani's provision was in breach of Scots law.¹⁷⁹ Although Sinclair does not appear to have had the same direct support from either Mary of Guise or the earl of Arran as from James V, he clearly retained possession of the prebend. It was not until 1546, however, that James Ard and the Cardinal of Trani finally accepted that the prebend would remain in Sinclair's hands, as the fruits probably had done since 1538. On 31 May, Ard resigned the canonry in favour of Sinclair, and the Cardinal of Trani also resigned his reservation of the fruits and the right of regress.¹⁸⁰ Sinclair himself sent a further petition for papal provision later that summer.¹⁸¹ Duncanson had actually died in 1544, and it seems likely that, with the instigator of all the trouble gone, the impetus for opposition to Sinclair had also disappeared. In any case, Sinclair retained Glasgow Primo until 1550, when he resigned it in favour of Alexander Lauder, but retained the liferent of the fruits.¹⁸²

It is clear that the challenge to local control of appointments to cathedral prebends from the Scottish procurators, using the rules of reservation, was very real. Although they had limited success in actually obtaining such benefices, they had considerable success in forcing local nominees to litigate at Rome and sometimes to pay a

¹⁷⁸ James V Letters, 405-6.

¹⁷⁹ 14 Aug. 1540 (James V Letters, 411); 14 April 1541 (James V Letters, 425).

¹⁸⁰ Ard's resignation (Reg. Supp. 2573, f.88^v); Resignation of reservation of fruits by Cardinal of Trani (Reg. Supp. 2573, f.89).

¹⁸¹ 12 Aug. (Reg. Supp. 2581, f.221-222).

¹⁸² Haws, Scottish Parish Clergy, 97.

pension to free the prebends from such litigation. As the last example illustrates, even royal power was not sufficient to prevent a determined procurator from maintaining a claim to one of these benefices over many years. The significance of the activities of the Scottish procurators essentially lay in the extent to which uncertainty was created and money was drained from Scotland to fight these cases.

There were clearly various routes by which clerks were able to gain possession of prebends in the Scottish cathedrals, none of which, it is clear, were guaranteed to bring success. Once such possession was gained, however, it was not uncommon for particular benefices to be passed to other members of the same family in such a way as to become almost hereditary possessions, a practice which was not restricted to major families. The motive behind this was presumably to maintain family control and provide both status and revenue, and to do so in such a way as to avoid litigation; in the latter hope, however, families were sometimes disappointed.

In some cases, the prebend was simply handed over by one member of the family to another. John Thornton, for example, resigned the prebend of Advie and Cromdale in the diocese of Moray in favour of his nephew, John Thornton junior, who was given possession by the bishop. On 28 March 1540, the younger John sought a new provision from Paul III.¹⁸³ Thornton is said to have assigned all dues from Advie and Cromdale to his natural son, Henry, and Henry's mother, Bessie Chalmer, in 1549.¹⁸⁴ Although John

¹⁸³ Reg. Supp. 2370, f.279^v-280; Repeated 14 January 1543 (Reg. Supp. 2492, f.23^v-24).

¹⁸⁴ Prot. Bk. Pollok, no.168.

Thornton junior was described as 'quondam' in 1549,¹⁸⁵ another member of the family, James Thornton, held the prebend at the Reformation and was apparently succeeded by a third John Thornton.¹⁸⁶ John Thornton's position as precentor of Moray from 1540 until after the Reformation presumably provided a certain amount of influence in such appointments, which he used to his family's benefit.

In some instances, the method adopted to secure the succession within the family was that of the *resignatio cum pensione*, namely a resignation to the intended successor while reserving all the fruits of the prebend for the existing holder. This was what happened to the prebend of Moy in the diocese of Moray, held by Henry White, probably the dean of Brechin, who died in early 1542. Several years earlier, in January 1537, however, he had resigned the prebend and, together with his nephew, John Nurche, sought provision for Nurche, while reserving the liferent of the fruits, emoluments and returns to Henry as an annual pension, together with reservation of regress if the benefice should become vacant.¹⁸⁷ This appears to have been successful although Nurche only lived for two years after his uncle's death, whereupon John Thornton asked for provision on 20 February 1544.¹⁸⁸

¹⁸⁵ Inchcolm Chrs., 200.

¹⁸⁶ Haws, Scottish Parish Clergy, 8.

¹⁸⁷ 23 Jan. (Reg. Supp. 2236, f.253-253^v).

¹⁸⁸ Reg. Supp. 2525, f.102. Although the parsonage of Croy and Moy are treated as one prebend by 23 November 1549 (Reg. Supp. 2399, f.35^v-36), and again on 4 May 1549 (Reg. Supp. 2662, f.10^v), the petitions of 1540 and 1544 suggest that Moy was still quite independent. It is not clear whether the merger was ever really effective (see Cowan, Parishes, 153).

A second example of this procedure was the resignation of the prebend of Ashkirk in the diocese of Glasgow by Richard Bothwell. On 31 May 1540, Bothwell resigned and asked that the pope would provide his brother's son, William Bothwell, who was then about twelve years old. The petition, which was duly granted, also sought an annual pension of all the fruits and reservation of the right of regress if William died or yielded his right in the benefice.¹⁸⁹ In the event, Richard Bothwell lived until 1 January 1549, so it was some time before William came into his inheritance, and he did not enjoy the fruits of the prebend for long. By November 1552, he was dead and John Reid was given royal presentation to the vacant prebend.¹⁹⁰

In some such cases, the original holder specifically retained not only the fruits and the right of regress, but also the title of canon and his place in the chapter. Although this may have been the case in practice in the examples just quoted, particularly where, as in the case of Ashkirk, the new holder was still a child, this was not formally stated. The prebend of Govan, which was transferred within the Beaton family in 1547 illustrates the retention of these more extensive rights by the original holder. The benefice had been in the hands of Walter Beaton since at least 1543, when the suggestion had been made that he resign in favour of his nephew, David, a suggestion which apparently came to nothing.¹⁹¹ In August 1547, however, Walter resigned in favour of James Beaton, another of his

¹⁸⁹ Reg. Supp. 2379, f.194-5; Provision (Reg. Lat. 1710, f.280-281^v); Reservation of fruits and regress (Reg. Lat. 1711, f.71-72^v).

¹⁹⁰ 7 Nov. (RSS, iv, no.1739). The see was said to be vacant, although in fact James Beaton was consecrated earlier that year.

¹⁹¹ 12 June (Reg. Supp. 2486, f.259^v).

nephews, and they asked for provision to the prebend for James and retention of the title of canon, a seat in the chapter, all the lands, fruits and rents along with the right of regress for Walter, and these requests were duly granted.¹⁹² Walter, who was a natural brother of Cardinal Beaton, appeared as canon in April 1548, in line with the arrangement.¹⁹³ James, who was about nine at the time of the provision *in commendam*, was described as holding the prebend in 1556, and died at some time before 1561.¹⁹⁴

Another of the Glasgow prebends similarly illustrates this method of retention of these benefices within a family. On 6 May 1537, Thomas Hay, a royal secretary during the 1520s and dean of the collegiate church of Dunbar, resigned the parsonage of Renfrew in the hands of the pope, and asked that Paul would provide George Hay, his natural brother to the benefice, while seeking also that he himself should retain the title of canon, his stall, and voice in the chapter along with the fruits of the parsonage and the right of regress, and papal grants were made accordingly.¹⁹⁵ Three years later, Thomas Hay asked for extinction of his title as canon and retention of the seat in chapter, though not his reservation of the fruits.¹⁹⁶ George Hay, a secretary to David Beaton, was distantly related to the cardinal, and a senator of the College of Justice.¹⁹⁷

¹⁹² 28 Aug. (Reg. Supp. 2619, f.192^v-193^v); Provision (Reg. Lat. 1778, f.49-51); Reservation to Walter (Reg. Lat. 1778, f.51-53). The relevant annates were promised on 30 December 1548 (PRO 31/9-33/245-6).

¹⁹³ ADCP, 574.

¹⁹⁴ Haws, Scottish Parish Clergy, 101.

¹⁹⁵ Reg. Supp. 2251, f.89; Provision (Reg. Lat. 1674, f.92^v-94). George Hay sought prorogation of the provision for a further 6 months on 26 May 1537 (Reg. Supp. 2261, f.188^v).

¹⁹⁶ 26 Feb. 1540 (PRO 31/9-33/97).

¹⁹⁷ ADCP, 559. Sanderson, Cardinal of Scotland, 105.

The prebend certainly continued in the family, for an Andrew Hay held the prebend in 1556, and was parson and minister through the Reformation until at least 1574.¹⁹⁸

A more complicated procedure than both of these was also adopted to ensure that a family retained its hold on a particular prebend, namely that of retrocession, a procedure illustrated earlier in the dispute over the precentorship of Glasgow.¹⁹⁹ The device was presumably intended to give extra protection to both members of the family, though it is difficult to see why this should be so except insofar as both could claim papal approval. It may have been felt that the original holder had weakened his position by resigning in the first place and, if, for example, it was likely that he would live for a considerable time, it would be safer for him to be provided again with access secured for his expected successor. Whatever the reason, it remains puzzling that prebendaries and their families were willing to incur the extra expense of such procedures.

This device was successfully adopted by the Bellenden family who used it with the precentorship of Glasgow, in order also to secure the parsonage of Lemplair in the diocese of Ross in 1542. On 24 December 1541, John Bellenden resigned the prebend, and petition for provision was made on behalf of his sister's son, Robert Kincaid, who at the time was ten years old.²⁰⁰ Seven days later, however, Robert ceded his right in the benefice, and together they asked the pope to provide John Bellenden to the parsonage, while reserving the right

¹⁹⁸ Haws, Scottish Parish Clergy, 206. For Thomas Hay's resignation of another Glasgow prebend, Eddleston, in favour of his brother, George, see above.

¹⁹⁹ See above, p.150.

²⁰⁰ Reg. Supp. 2444, f.64^v.

of access to Robert Kincaid, a request which was granted.²⁰¹ Bellenden died in 1548 and, on 21 March of that year, royal presentation was given to John Kincaid, the see being regarded as vacant.²⁰² In a later petition to the pope in July, seeking prorogation of the provision for a further six months, John was also described as John Bellenden's nephew by his sister; this may reflect either a confusion of names or a transfer of right from one Kincaid to another, a transfer for which there is no other evidence and which seems rather unlikely.²⁰³ If the intention of the procedure was to dissuade potential litigants, it was not totally successful for, on 7 November 1548, William Cranston petitioned for provision to the prebend.²⁰⁴ It was perhaps this implied threat to the hold exercised by the family on the parsonage which prompted the second royal presentation of John Kincaid three days later.²⁰⁵ Kincaid himself asked for a new provision in February 1549,²⁰⁶ and it was held at the Reformation by Henry Kincaid so that it is clear that it was retained successfully by relatives of the Bellendens as was the original intention.²⁰⁷

In another case of retrocession, although the prebend was passed successfully between two members of the same family, the success

²⁰¹ 31 Dec. (Reg. Supp. 2454, f.290-291); Provision (Reg. Lat. 1732, f.197-198^v); Reservation of access (Reg. Lat. 1729, f.100^v-102). The annates of provision and of reservation of access were promised on 1 June 1542 (PRO 31/9-33/138-9).

²⁰² RSS, iii, no.2687. David Paniter was not yet consecrated.

²⁰³ 26 July 1548 (Reg. Supp. 2645, f.159^v).

²⁰⁴ Reg. Supp. 2648, f.142-142^v.

²⁰⁵ 10 Nov. (RSS, iii, no.3014).

²⁰⁶ Reg. Supp. 2652, f.191-191^v.

²⁰⁷ Haws, Scottish Parish Clergy, 158.

was relatively transient for the first holder died within two years of receiving the benefice and his successor resigned within two years of succeeding to it. The prebend of Brechin known as the pensionary was resigned by Alexander Seton on 5 April 1536, and John Seton asked for papal provision, notwithstanding his defect of age.²⁰⁸ The cession back to Alexander took much longer than in most other instances: it was not until 17 April of the following year that John yielded his right in the benefice and the two Setons together petitioned for provision for Alexander to the prebend, together with the right of access if it should become vacant by any means.²⁰⁹ Alexander appears to have died in September 1538, and John then obtained possession, as intended. Within two years, however, he had resigned the benefice, thus beginning a dispute between David Bonar and Thomas Huchesoun.²¹⁰

Although these examples indicate the scale of the successful use of this particular procedure, it was not always so effective, as is illustrated by the transfers involving the parsonage of Inverkeithny, a prebend of Moray. On 25 September 1547, John Lockhart resigned the prebend in the hands of the pope, and Andrew Lockhart petitioned for provision.²¹¹ On the following day, however, Andrew ceded his right in the benefice in favour of John, who himself sought provision while reserving regress to the benefice for Andrew when the prebend became vacant.²¹² The intention presumably was that

²⁰⁸ Reg. Supp. 2210, f.271^v-272. On 22 December, he sought prorogation for a further six months (Reg. Supp. 2231, f.129^v).

²⁰⁹ Reg. Supp. 2264, f.349^v-350; 20 April 1537 (PRO 31/9-33/81-2).

²¹⁰ 11 April 1540 (Reg. Supp. 2377, f.64-64^v); see also above, p.189ff.

²¹¹ Reg. Supp. 2615, f.57.

²¹² 26 Sept. (Reg. Supp. 2619, f.15^v-16); Provision (Reg. Lat. 1789, f.344^v-347); Reservation of regress (Reg. Lat. 1789, f.342-344^v).

Andrew would eventually succeed his kinsman. In the event, however, John was still in possession in 1557, and there is no evidence that Andrew ever did obtain the prebend. It may be that John Lockhart lived rather longer than had originally been expected, and indeed outlived Andrew. Whatever the reason, the prebend was held at the Reformation by Hugh Cragy, and it seems probable that he succeeded John Lockhart directly.²¹³

The use of both resignations *in favorem* and retrocessions to retain prebends within families did not always go unchallenged. In two cases involving the Dunbar family, other claimants sought to utilize the opportunity of the resignations being made at Rome to press their own claims, although in the event, they were both unsuccessful. In the first of these, the procedure is complicated by the appearance of another holder between the two members of the family, although it would appear that the family, in this case the Dunbars, actually maintained their hold on the fruits of the prebend, that of Methlick in the diocese of Aberdeen, throughout the entire period concerned. In June 1534, Alexander Dunbar, who was also dean of Moray, resigned the prebend in favour of Thomas Gaderar, whilst retaining all the fruits and reserving the right of regress if it should fall vacant.²¹⁴ This was part of a complicated transaction by which Patrick Dunbar also resigned the prebend of Banchory in favour of Alexander. On 3 November, Thomas Gaderar was given papal provision to the parsonage.²¹⁵ In May of the following year,

John promised the annates of provision and Andrew those of regress on 8 July (PRO 31/9-33/238-9).

²¹³ Haws, Scottish Parish Clergy, 114.

²¹⁴ 29 June (PRO 31/9-32/196).

²¹⁵ Reg. Vat. 1455, f.119-120; Both Gaderar and Dunbar promised annates on 20 November (PRO 31/9-33/2).

Gaderar felt the need to consolidate his position and sought papal provision again.²¹⁶ The cause of his concern was probably a challenge from William Barclay, who sought provision on 30 May, stating that the prebend was void *certo modo*, and possibly by the resignation of Patrick Dunbar.²¹⁷ This led to litigation in the curia which Gaderar sought to end in a further petition later that year.²¹⁸ This was clearly successful, for he retained the canonry until 1547.²¹⁹ The following year, however, he resigned the benefice in favour of David Dunbar, with access in the event of a vacancy being reserved to Alexander Dunbar, and a pension of about one-fifth of the fruits only reserved to Gaderar, a transaction which was successful.²²⁰ Given the circumstances, it is possible that Gaderar was related to the Dunbars, but in any event it was the Dunbar family who successfully retained the fruits, or the bulk of them, through these transfers.²²¹

The second prebend, as noted above, was that of Banchory-Devenick, also in Aberdeen diocese. On the same day on which Alexander Annand resigned the prebend of Methlick in favour of Thomas Gaderar, Patrick Dunbar resigned the canonry of Banchory in favour of Alexander Dunbar, his natural brother, while retaining a

²¹⁶ May (Reg. Supp. 2190, f.16^v-17).

²¹⁷ Reg. Supp. 2175, f.81^v-82.

²¹⁸ 22 Oct. (Reg. Supp. 2189, v.89-89^v).

²¹⁹ Aber. Reg., ii, 319.

²²⁰ 30 Aug. 1548 (Reg. Supp. 2642, f.215^v-216; Provision (Reg. Lat. 1778, f.269-271); Pension to Gaderar (Reg. Lat. 1778, f.321^v-323^v); David Dunbar promised the annates on 27 February 1549 (PRO 31/9-33/248).

²²¹ In fact, the Dunbars cannot have subsequently held it for long. In 1552, when Thomas Burnet, son of Burnet of Leys, was presented to the prebend, he was succeeding Duncan Burnet. 12 March (RSS, iv, no.1546).

life-rent of the fruits together with the right of regress if the benefice became vacant.²²² The challenge to Alexander Dunbar's possession came in the spring of 1535, when Andrew Lockhart, on the same day as Gaderar was challenged by William Barclay, sought provision to the prebend of Banchory which he claimed was vacant *certo modo* or by the resignation of Patrick Dunbar.²²³ Alexander responded first by seeking a new provision to the prebend at the same time and subsequently following litigation in the curia, by a second petition in October 1535.²²⁴ The identical timings of the various stages of these two cases strongly suggests that they were almost certainly being treated together by the Dunbar brothers.

It was through procedures such as these that families endeavoured to secure a more lasting hold on cathedral prebends. Yet these procedures were not used by families alone. Others, who were apparently unconnected by birth, clearly found it worthwhile to try to secure succession to such benefices before they fell vacant. For the existing holder, the purpose of such a move may have been to avoid the possibility of being sucked into litigation for any reason. The intending successor presumably wished to secure a firm hold on the benefice and of course its revenues, possibly to bypass the legitimate patrons, and hopefully by this means to discourage other litigants also.

²²² 30 June 1534 (PRO 31/9-32/295-296); Provision for Alexander Dunbar, 3 Nov. 1534 (Reg. Vat. 1456, f.64-66); Pension and regress for Patrick (Reg. Vat. 1455, f.111-112); Alexander obliged himself for the annates on 20 November (PRO 31/9-33/1-2).

²²³ 30 May (Reg. Supp. 2175, f.82).

²²⁴ 30 May (Reg. Supp. 2190, f.16^v-17); 22 Oct. (Reg. Supp. 2189, f.88-88^v).

The prebend of Inchmagrannoch, one of the prebends in the diocese of Dunkeld which was maintained from temporalities, was passed on from Thomas Brown to Robert McNair by a retrocession similar to those described above. On 17 March 1542, Brown resigned the canonry and McNair petitioned for provision.²²⁵ Four days later, however, McNair yielded his right in the prebend in favour of Brown, and together they sought provision for Thomas with the right of access to the canonry being reserved to Robert when it next fell vacant, requests which were granted.²²⁶ One year later, McNair petitioned for correction of the fruits, stating that he had obtained the prebend by resignation of Thomas Brown.²²⁷ The background to this is not clear, but it may be that by this time he had in fact succeeded to the prebend as originally intended. Certainly this objective had been achieved by 1562, when Robert McNair was described as prebendary.²²⁸

The use of the same procedure also enabled the parsonage of Buttergill within the diocese of Brechin to be successfully transferred. In this case, once the prebend had been obtained by the new canon, it did in fact remain in the hands of his family, that of Abercrombie of Abercrombie. John Meldrum resigned the prebend at the end of May 1541, and Thomas Abercrombie then asked for papal provision.²²⁹ It was not until 17 July that the retrocession

²²⁵ Reg. Supp. 2453, f.262-262^v.

²²⁶ 21 Mar. 1542 (Reg. Supp. 2457, f.271-271^v); Provision (Reg. Lat. 1732, f.128-129^v); Reservation of access (Reg. Lat. 1732, f.129^v-131).

²²⁷ 19 Jan. 1543 (Reg. Supp. 2474, f.37-38).

²²⁸ 9 Dec. 1562 (RMS, iv, no.1697). He also held the parsonage of Bona in Moray (Thirds of Benefices, 214).

²²⁹ 30 May (Reg. Supp. 2432, f.134-134^v).

took place, and Thomas was granted, in addition to the right of regress if the benefice fell vacant, an annual pension of £20 Scots, representing about a quarter of the fruits of the prebend.²³⁰ As with the prebend of Inchmagrannoch, a petition was made by Thomas Abercrombie for correction of the fruits three days later; it seems most unlikely that Meldrum had resigned again in that time.²³¹ The canonry was eventually obtained by Thomas Abercrombie who held it by 1556 at the latest, when he witnessed a charter of the bishop.²³² By 1559, it had been handed on within the family, because Robert Abercrombie was presented to the parsonage on 18 August, after the death of Thomas and was still in possession in 1567.²³³

The prebend of Ayr in the diocese of Glasgow was also transferred by this process of retrocession. David Gibson was given royal presentation to the prebend, vacant 'by resignation, incapacity or death' of Gilbert Benyng, the previous holder, on 6 July 1546.²³⁴ Three months later, on 9 October, David himself sought papal provision, Gilbert Benyng having resigned in his favour, and claiming that the prebend was in royal patronage.²³⁵ On 13 October, however, David Gibson yielded his right in the benefice in favour of

²³⁰ Reg. Supp. 2434, f.95v-96v; Provision (Reg. Lat. 1723, f.58-59); Reservation of regress and grant of pension (Reg. Lat. 1724, f.174-177); The annates of provision and reservation were both provided on 18 March 1542 (PRO 31/9-33/136-7).

²³¹ 21 March 1542 (Reg. Supp. 2464, f.295^v-296).

²³² Brechin Reg., ii, 203.

²³³ RSS, v, no.649; Haws, Scottish Parish Clergy, 33.

²³⁴ RSS, iii, no.1745. The prebend was said to be at royal presentation, and the see was not vacant. See n.219.

²³⁵ Reg. Supp. 2585, f.138. Six prebends of the Chapel Royal were supported from the fruits of Ayr, in addition to this prebend in Glasgow Cathedral (Cowan, Parishes, 12). This prebend was perhaps in royal patronage as a result of this arrangement.

Benyng, and together they asked for provision to Benyng, with reservation of the right of access to the benefice however it fell vacant for David, and this was given papal approval, apparently with the approval of the earl of Arran.²³⁶ The prebend was in Gibson's possession by 1552, when he was described as parson of Ayr,²³⁷ and he retained it until about 1566 when he was the 'deceased prebendary'.²³⁸

This device of retrocession, although used on several occasions, was not the only means by which a prebend was transferred without a vacancy occurring. As has been shown to happen within families, another method was simply for the holder to resign the title to the prebend in favour of his proposed successor, but to retain the fruits of the benefice. The prebend of Moneydie in the church of Dunkeld was transferred in this manner from Alexander Douglas to Michael Walker in 1538. The reason for adopting this course of action was presumably to thwart potential litigation over the prebend, a threat which in this case was probably very real. Alexander had been paying an annual pension of 40 merks Scots on the fruits of the prebend to John Duncanson; on 30 June 1536, this was transferred to Duncanson's nephew, James Ard,²³⁹ and they may have posed a threat to any intention to ensure the succession of a local candidate. On 24 June 1538, Douglas resigned the parsonage and, together with Michael Walker, petitioned that the pope would provide Michael, while reserving all the fruits for Alexander for life, along with the right of

²³⁶ Reg. Supp. 2588, f.68^v; Provision (Reg. Vat. 1655, f.119-120^v).

²³⁷ 30 June 1552 (RSS, iv, no.1640).

²³⁸ Haws, Scottish Parish Clergy, 18.

²³⁹ Reg. Supp. 2215, f.257-257^v; Reg. Lat. 1663, f.92-95^v.

regress in the event of the benefice falling vacant.²⁴⁰ By 1550, the prebend was held by Walker, who retained possession at the Reformation.²⁴¹

The prebend of Philorth in Aberdeen cathedral was resigned in the same way by John Leich, when James Menzies obtained provision to the canonry on 2 December 1535.²⁴² Leich himself successfully sought a life-pension of all the fruits of the canonry together with the right of regress on the same day.²⁴³

Appointments to the cathedral prebends, as to the lesser dignities, were subject to a range of potentially conflicting rights. In the first place, the rules of reservation relating both to the death of holders in specified months and to vacancies created by resignations provided considerable scope for appointments to be taken to Rome. Some of these were made without encountering any opposition, but many of the petitions reflect disputes either within Scotland itself or between Scots at Rome and those resident in Scotland. The activities of the Scottish procurators in challenging local claimants and thus creating litigation was quite substantial. Their readiness to do so must have increased by their success on several occasions in obtaining benefices or, as a consolation, pensions

²⁴⁰ Reg. Supp. 2298, f.60-60^v; Reservation of fruits and rights of regress (Reg. Lat. 1686, f.250-251^v).

²⁴¹ M.J.Yellowlees, 'The ecclesiastical establishment of the diocese of Dunkeld', 80.

²⁴² Reg. Supp. 2195, f.228-228^v; Provision (Reg. Lat. 1638, f.104-105^v); Annates of provision promised (PRO 31/9-33/14-15).

²⁴³ Reg. Supp. 2197, f.187; Pension and regress (Reg. Lat. 1636, f.245-246^v); Leich obliged himself for the annates of the reservation of the fruits and regress (PRO 31/9-33/13-14).

from the successful litigant; however, failure was at least as common, indicating the strength of the local opposition.

Within Scotland, the crown's rights of patronage to benefices in ecclesiastical patronage during episcopal vacancies enabled it also to play a substantial role. It is clear however that the crown was also prepared to intervene where it had no such right: crown appointments and intervention appear to have been dictated partly by principle and partly by convenience, in order to support a particular individual or to counter the influence of other interested parties.

In comparison with the extensive exercise of these rights, evidence for the active interest of the regular patrons in prebendal appointments is perhaps surprisingly much less firm. Among the relatively few lay patrons, only the Hays of Errol can be found explicitly making an appointment to a prebend in their patronage. Amongst the much greater number of prebends in episcopal patronage, only in the diocese of Moray under the Hepburn family is there clear evidence of appointments made by bishops. No doubt other appointments were made at episcopal instigation but documentary evidence of this from these records at least is lacking. In contrast with this, there is rather greater evidence for the influence of major families in determining appointments to prebends in their locality.

Both papal rights of reservation and royal rights of presentation could and did result in unchallenged appointments to prebends. At the same time, as has been shown, appointments instigated by both these means could also result in lengthy disputes. Several of these arose from the conflict between these rights as when, for example, a

vacancy occurred in a reserved month when the see was also vacant and in consequence a crown nomination was challenged by a petition to Rome. No conclusion as to the dominance of one right over the other can be drawn from these examples: the success or failure of candidates appears to have related more to the strength of individual claims than to any other cause.

The exercise of these rights and the interplay between them are not the only features illustrated by these appointments to prebends. They also indicate important patterns of benefice-holding, and in particular both the extent to which benefices were passed from one holder to another and also the ways in which such transfers were affected. The securing of the succession most commonly took place within families to such a degree that it would appear that, at least for a period, certain prebends almost became the property of particular families, which were not necessarily of local provenance or of significant secular power. The Thorntons, whose 'power-base' within Scotland was in the diocese of Moray, secured the succession to the prebend of Advie and Cromdale. The major ecclesiastical family within Scotland, the Beatons, retained the parsonage of Govan in the same way. The Bellendens, who had secured some royal favour through literary means but were otherwise not a family of great significance, kept possession of the prebend of Lemlair. These three examples also illustrate the different methods used to effect such a transfer. The Thornton succession was achieved by a simple resignation in favour of the new incumbent; when Walter Beaton resigned in favour of his nephew, David, he nevertheless retained the title of canon and his voice in the chapter as well as the fruits and, by that means, effective possession for the immediate future; and John Bellenden's means of securing succession for Robert Kincaid

involved successive resignations first by himself and then by Robert back in his favour, which essentially restored the status quo but gave Kincaid a strong claim to the title for the future. These second two methods of transfer, as well as possibly providing greater security for both the actual and potential holders, may well have been more appropriate in cases where the intended new holder was relatively young, as was certainly the case for example with both the younger Beaton and Kincaid. The idea of securing the succession to a benefice by such methods was not however confined exclusively within families. It is clear from these records that they were also used with considerable frequency to secure transfers between individuals who were not apparently related but who wished to secure a peaceful succession. This device did not necessarily secure untroubled succession. The very process of resignation could open the door to other claimants. The evidence of the cathedral prebends, however, is that the transfers were likely to withstand such challenges.

The conditions which produced, as a result of the exercise and interplay of various rights, these patterns of appointment to cathedral prebends, generating litigation on a considerable scale in the process, and these characteristics of tenure and succession in such benefices also applied to the largest group of benefices, the parish churches. An examination of these churches will indicate the extent to which the same patterns occurred as a result at this lower level of the church.

CHAPTER 6

THE PARISH CHURCHES

The variety of different, and potentially conflicting, rights which helped to determine many appointments to cathedral dignities and prebends applied in much the same way to parochial benefices. However, the great increase in the number of benefices available to churchmen within the parish structure also multiplied the number of patrons and the scope for challenging their rights from various quarters. Such a situation makes it desirable in this instance to start by examining internal Scottish interests before proceeding to assess the impact of papal rights on appointments to parish churches.

The crown was itself patron of a small number of parishes, most of them in the West Highlands and, among the many royal presentations to parsonages during this period, are several to these churches. While Arran was governor, for example, Robert Hamilton, son of James Hamilton of Stenhouse, was presented to the parsonage of Rannoch when it became vacant in 1549 on the death of Robert Menzies.¹ The Hamilton family retained the church through the mid-1550s, though not through the Reformation.² While the presentation of Robert Hamilton presumably represents an attempt to benefit the Hamilton family, no such motive can be attributed to the presentation of Sir Charles McLean to the parsonage of Killintag in June 1542.³ Six years later, James Walker was identified as rector of Killintag when he was presented to another

¹ 31 May 1549 (RSS, iv, no.276).

² RSS iv, no.3006; Following the Reformation, the church was in the hands of the Menzies family who were the lairds of Weem (Haws, Scottish Parish Clergy, 203).

³ 27 June (RSS, ii, no.4719).

benefice in 1557, so it is unclear how long, or even whether, McLean actually held the parish church.⁴

The same can be said of several other appointments to such parishes. No connection is known, for example, between the Hamiltons and Archibald McGillvray, who was presented to the parsonage of Kilmuir in Trotternish, one of the twelve parishes of Skye in 1547, when it was demitted by Roderick McLean, elect of the Isles.⁵ For no clear reason, there are two further presentations of McGillvray to the church by the crown in 1552 and 1554, in each case giving the same cause of avoidance.⁶ Although the first presentation in 1547 explained the appointment on the grounds of the see being vacant, the later ones correctly described the church as being in royal patronage. How long McGillvray retained the church is unknown: by 1557, it was held by David Lawson.⁷

Much earlier, James V had similarly presented a clerk of whom nothing else is known to another church in royal patronage. Sir John Donaldson was granted the parsonage of Knoydart on 2 July 1536,⁸ although again it is not known how long thereafter he held the church. A further presentation of this kind took place 2 years later, when John McGauchane was presented to the parsonage of Kilblane in the diocese of Argyll on 25 September 1538.⁹ In this case, local interests may have been at work, for the McGauchane family held land in the parish as a

⁴ 26 Nov.1548 (RSS, iii, no.3031).

⁵ 22 Feb. (RSS, iii, no.2164). Later that year, McGillvray was granted all the goods belonging to Thomas Spottiswood, servitor to Robert, elect of Caithness, when Spottiswood was escheated for being in England without royal licence (2 Aug.1547 (RSS, iii, no.2358).

⁶ 14 Dec.1552 (RSS, iv, no.1828); 24 April 1554 (RSS, iv, no.2737).

⁷ Haws, Scottish Parish Clergy, 132.

⁸ RSS, ii, no.2074.

⁹ RSS, ii, no.2724.

result of grants made by James IV.¹⁰ Shortly before James V's death, Sir Fingon McMillan was given royal presentation to another church in crown patronage, the parsonage of Benbecula, when Archibald McGillvray demitted the benefice.¹¹

All these churches were in remoter parts of the country, all but one being in the West Highland dioceses. It is, perhaps, not surprising therefore that the crown did not always choose to exercise its rights to patronage. There are two identified cases where presentation was said to have devolved to the curia as a result presumably of delay in presentation: in each case, the same petitioner, John Pierson, was involved. On 19 March 1540, Pierson sought provision to the parsonage of Glenelg together with the parsonage of Miginish in Skye.¹² In this petition, he mentioned an intrusion by another candidate for the benefice but without naming the individual. There is, in fact, no further evidence as to who subsequently held either of these benefices, so the outcome of these requests is, in the final analysis, uncertain.

The parsonage of Eassie, a parish in the diocese of St. Andrews in north Angus, was a very different benefice from the other churches in royal patronage in that it was located in the most central of all the Scottish dioceses. For this reason, greater royal interest might have been expected in an appointment to the parsonage. In the event, there was no indication of such interest when Andrew Beaton was appointed to the benefice in 1539, and the main influence was clearly his cousin, Cardinal Beaton. Andrew first sought a new provision to the benefice on 2 September 1539, stating that he had already obtained the parsonage by ordinary authority, but that his right to it was doubted

¹⁰ Origines Parochiales Scotiae, ii, 10.

¹¹ 17 Sept. 1542 (RSS, ii, no. 4880).

¹² Reg. Supp. 2368, f. 124-124^v.

by some.¹³ Two months later, Cardinal Beaton wrote to his secretary, Andrew Oliphant, then in Rome, saying that he had bestowed the parsonage on his cousin, but that he had also heard that John Sanquhar, the previous incumbent, had resigned the parsonage before his death in favour of James Sanquhar. Beaton asked Oliphant to ascertain if this recognition was admitted before 2 July, when John had died. In fact the letter was intercepted by the English authorities, so it is doubtful whether it ever reached Oliphant.¹⁴ Andrew Beaton petitioned for a new provision nearly five years later, stating that the Cardinal had granted it to him by apostolic indult, but that some doubted this presentation.¹⁵ This case raises an interesting point since, if all the facts as stated by the Cardinal are correct, it is unclear why he should have exercised powers under indult. Beaton's 1539 indult did not cover benefices in royal patronage. His indult as legate *a latere* was issued in January 1544, presumably after Andrew Beaton's original appointment.¹⁶ Andrew Beaton's petition however described Sanquhar's death as taking place in June rather than July. In any case, Andrew Beaton's possession was not entirely unchallenged because in September 1544 the ubiquitous John Duncanson claimed that he had obtained the parsonage by regress from the previous incumbent and he now wished to resign it in favour of John Gray, vicar of Tarbat. Gray sought papal provision to the church and, a few months later, asked for prorogation of his provision in order to oust his opponent.¹⁷ This

¹³ Reg. Supp. 2344, f.297^v-298.

¹⁴ 16 Nov.1539 (James V Letters, 383). The letter survives in the English State Papers.

¹⁵ 12 July 1544 (Reg. Supp. 2525, f.102^v).

¹⁶ Sanderson, Cardinal of Scotland, 108,195.

¹⁷ 3 Sept. (Reg. Supp. 2521, f.67: PRO 31/9-33/173-4); petition for prorogation, 15 Jan.1545 (Reg. Supp. 2530, f.18).

attempt from Rome to thwart the Cardinal's wishes, however, met with no success. Indeed, when in 1547, the crown did subsequently become involved in making an appointment to this parsonage in its patronage, it was to present John Beaton, son of John Beaton of Balfour, to the church following his kinsman's death.¹⁸

The crown obtained the patronage to a number of other parish churches in the western isles through the forfeiture of the Lord of the Isles in 1493. One such was the parsonage of Kilarrow in Islay, to which James V presented Charles McLean in 1538 when it became vacant following the death or demission of Patrick Roge.¹⁹ This was unchallenged, and McLean was still in possession of the church in 1573.²⁰ The parsonage of Harris was another church which came into the crown's hands after 1493. There is some confusion about who held this benefice in 1540. In March of that year, Finlay John resigned the parsonage in the hands of the Pope, and John Pierson sought provision to it despite defect of birth.²¹ However, two years later, Finlay Tormotson was given royal presentation to the parsonage, when it was said to be vacant by the death of Alexander McLeod.²² It was this appointment which was successful, for Tormotson retained the church until shortly before 1 May 1564.²³

The parsonage of Kilchoman, another of the Islay churches, also came into crown patronage by the 1493 forfeiture. The picture of

¹⁸ 31 Aug. (RSS, iii, no.2415). John Beaton of Balfour was the cardinal's nephew.

¹⁹ 24 Aug. (RSS, ii, no.2687).

²⁰ Haws, Scottish Parish Clergy, 119).

²¹ 12 March (Reg. Supp. 2368, f.73).

²² 12 Nov.1542 (RSS, ii, no.4976).

²³ Haws, Scottish Parish Clergy, 105.

appointments during the 1540s suggests both some element of uncertainty within the government and a measure of opposition to the appointments made by the crown. In July 1542, James May was presented by the crown to the parsonage, when it was said to be void by death of Archibald McCarbry.²⁴ In the spring of 1543, however, Roderick Ferquhardi petitioned for provision to the church, stating that the vacancy had arisen by the death of Donald Macduff. He claimed that any provision to Archibald McCarbry was void on grounds of incapacity.²⁵ Nothing further came of this. On the other hand, further presentations to the parsonage were made by the crown. Firstly, Ninian McVicar was presented, when the benefice was said to be void by the inability, resignation or death of James May, in June 1543.²⁶ Three years later, on 6 March 1546, Alexander McAlestir was given presentation to the church, following the resignation of Ninian McVicar.²⁷ Just over a year later, a further crown presentation suggested that James May had retained possession throughout this period, for the vacancy which led to the presentation of Archibald McGillvray was said to be caused by May's incapacity.²⁸ Whatever happened during these four years, the situation stabilized with McGillvray's appointment, for he retained the parsonage at least until 1553.²⁹

The major opportunities for royal patronage, however, came not from parishes which were already in its patronage, but rather from the

²⁴ 1 July (RSS, ii, no.4739).

²⁵ 4 April (Reg. Supp. 2486, f.258^v).

²⁶ 20 June (RSS, iii, no.329).

²⁷ RSS, iii, no.1578.

²⁸ 8 Aug.1547 (RSS, iii, no.2370).

²⁹ Haws, Scottish Parish Clergy, 122.

relatively long vacancies in bishoprics during which benefices in ecclesiastical patronage became available for presentation by the crown. Not only did these rights bring in a much larger number of parochial benefices to royal patronage; they were also spread not just across the remoter dioceses but throughout the whole of Scotland. The majority of crown presentations during this period arose from the exercise of this right.

There are at least two examples of this from the diocese of Ross. The perpetual vicarage of Kiltarn, the parsonage of which was a prebend in the cathedral,³⁰ changed hands several times in this way. On John Gardiner's death in 1539, John Auchinleck was presented to the vicarage on 27 April.³¹ His tenure was brought to an end by his involvement in the murder of Beaton in 1546. The vicarage was declared void by his inhability, and the crown presented James Hamilton, son of James Hamilton of Innerwick, to the benefice in August of that year.³² Late the following year, another presentation was made of Launcelot Hamilton, another son of Hamilton of Innerwick, and he was also granted the escheat of Auchinleck's goods and emoluments.³³ These appointments reflect the policy of the Hamiltons of exercising patronage in favour of members of their family. Neither of the two Hamiltons appears to have served the vicarage, since William Munro was curate in 1546,³⁴ and the benefice left the hands of the family in April 1550, when Launcelot was said to have resigned it and Sir John Sideserf was given

³⁰ Cowan, Parishes, 109.

³¹ RSS, ii, no.3004.

³² 22 Aug. (RSS, iii, no.1857). Auchinleck was given remission in 1548 for his part in the murder (Origines Parochiales Scotiae, ii, 477-8).

³³ 19 Dec.1547 (RSS, iii, no.2566-7).

³⁴ Haws, Scottish Parish Clergy, 134.

royal presentation to the vicarage, successfully retaining it for seventeen years.³⁵

The other benefice in the diocese of Ross to which appointments were made by crown presentation was the perpetual vicarage of Rosemarkie, whose patronage lay with the dignitaries of the cathedral.³⁶ In February 1546, Sir Thomas Stevenson was presented to the church following its voidance by the death or resignation of Thomas Gray.³⁷ He himself held it for little more than three years, resigning it on 12 May 1549, to be succeeded by George Dunbar, an appointment also made by royal presentation, and one which was longer-lived in that he retained the vicarage until about 1571.³⁸

The pensionary vicarage of Rothesay in the diocese of the Isles, a church annexed to the collegiate church of Restalrig,³⁹ provides an example of the exercise of crown rights *sede vacante* from that diocese. Master Andrew Hamilton was appointed to the benefice on 27 April 1548 in two separate presentations, in the first of which, the vicarage was said to be vacant by the death of Sir Alexander Ballantyne, and in the second by the death of Sir Walter Turnbull.⁴⁰

The diocese of Dunkeld provides at least one example of a royal presentation of this kind. Sir James Chalmers was presented to the pensionary vicarage of Rosyth in February 1549 when it became vacant

³⁵ 27 April (RSS, iv, no.648); Haws, Scottish Parish Clergy, 134).

³⁶ Cowan, Parishes, 172.

³⁷ 19 Feb. (RSS, iii, no.1564).

³⁸ RSS, iv, no.245; Haws, Scottish Parish Clergy, 209.

³⁹ Cowan, Parishes, 174.

⁴⁰ RSS, iii, no.2744; RSS, iii, no.2743.

as a result of the resignation of Andrew Mason.⁴¹ Chalmers retained the benefice successfully until some time before 1588.⁴²

Not surprisingly, the major dioceses of St. Andrews and Glasgow provide substantially more evidence of crown presentation *sede vacante*. The perpetual vicarage of Forteviot in St. Andrews, for example, was obtained in 1547 by Robert Auchmowty, who was presented to the church when it became void by the death of his brother, James.⁴³ Both were servants of David Beaton and James may have secured the benefice through his patron's influence, although the patronage was, in normal circumstances, in the hands of St. Salvator's College. The 1547 presentation may reflect simply the tendency for certain benefices to remain within particular families. In the event, however, Robert did not hold it long: by 8 January of the following year, he had resigned and the crown presented Sir William Laing to the vicarage, who subsequently held it until 1565.⁴⁴

The perpetual vicarage of Gullane was given to Master Ninian Hamilton in a royal presentation on 19 November 1548.⁴⁵ It seems certain that this reflected the exercise of the Hamilton authority in the interest of one of their family. Indeed, almost six years earlier, Ninian had been granted a pension of 100 merks Scots per annum until a benefice of this value should become available for him.⁴⁶ Although the

⁴¹ 9 Feb.1549 (RSS, iii, no.1058). This case is unusual in that the nature of the vacancy in the see is unclear. John Hamilton, who was in dispute with Robert Crichton over the bishopric, was consecrated in August 1546. Although he was translated to St.Andrews in November 1547, this was not effective till June 1549. In a sense, therefore, he was still the consecrated bishop of Dunkeld (*Fasti*, 100).

⁴² Haws, *Scottish Parish Clergy*, 210.

⁴³ 3 Oct. (RSS, iii, no.2476).

⁴⁴ RSS, iii, no.2591; Haws, *Scottish Parish Clergy*, 92.

⁴⁵ RSS, iii, no.3030.

⁴⁶ 24 Feb.1543 (RSS, iii, no.106).

fulfilment of this arrangement was long-delayed, he did obtain, in the interim, the escheat of the moveable goods of Andrew Johnstone, which fell to the crown by his death, in March 1546.⁴⁷ It is uncertain how long he held the vicarage: by the Reformation, it had reverted to its more usual state in that it was held by George Haliburton, a canon of Dryburgh, the monastic house to which the church was appropriated.⁴⁸

The perpetual vicarage of Strathmartine in St. Andrews diocese similarly received an appointment during the vacancy in the see. When the benefice fell vacant on the death of Sir David Eduert, Sir John Mortimer was presented to it on 1 February 1549.⁴⁹ This was successful for a time in that he was still in possession in 1554, though probably not at the Reformation and certainly not by 1562/3.⁵⁰

The death of George Ogilvy, perpetual vicar of Lintrathen, also provided an opportunity for presentation by the crown, and James Archibald was appointed to the benefice in October 1547.⁵¹ He was described in the presentation as 'chaplain' and only demitted the vicarage in 1580, having been 'content to abyde sik reformatioun as the lordis of our Secreit Counsale pleise mak thairintill', and becoming a burgess of Stirling in the meantime.⁵²

The perpetual vicarage of Whittinghame was normally served by a pensioner appointed by the dean of the collegiate church of Dunbar, the parsonage being the prebend of that dignitary.⁵³ However, during the

⁴⁷ 30 March (RSS, iii, no.1607).

⁴⁸ Cowan, Parishes, 78-79.

⁴⁹ RSS, iv, no.80.

⁵⁰ Haws, Scottish Parish Clergy, 229.

⁵¹ 25 Oct. (RSS, iii, no.2513).

⁵² Haws, Scottish Parish Clergy, 163.

⁵³ Cowan, Parishes, 210.

vacancy in the see of St. Andrews, Sir Thomas Lyle, a chaplain, was given royal presentation to the benefice in January 1549, when it fell vacant on the death of Lawrence Dickson.⁵⁴ As in the case of Lintrathen, Lyle retained possession of the vicarage through the Reformation and possibly until 1568.⁵⁵

There were a similarly large number of parochial benefices in the diocese of Glasgow which received incumbents by this route during this period. One of these was the parsonage of Kirkbean, a case which also illustrates what appears to have been a temporary disjoinment of an appropriation. The benefice was annexed to the provostry of Lincluden.⁵⁶ However, in September 1547, when the benefices had become vacant following the death of George Marschall, Robert Douglas was appointed to the provostship, while Master Robert Somerville, son of Hugo, Lord Somerville, was given presentation to the parsonage.⁵⁷ Later the same month, Somerville was given a second presentation, the parsonage being said on this occasion to be vacant by the death of Bernard Baillie.⁵⁸ Whatever the reality of the situation, he held the benefice until 1577, while Douglas retained the provostry simultaneously until 1585.⁵⁹

The perpetual vicarage of Dunlop provides a second example of such an appointment from Glasgow diocese. Master James Lindsay was presented to the benefice during the vacancy in the see in January

⁵⁴ 5 Jan. (RSS, iv, no.24).

⁵⁵ Haws, Scottish Parish Clergy, 247.

⁵⁶ Cowan, Parishes, 117.

⁵⁷ 16 Sept. (RSS, iii, no.2432). Dr Haws describes the church as a perpetual vicarage, but this appears to be an error. Haws, Scottish Parish Clergy, 144.

⁵⁸ 25 Sept.1547 (RSS, iii, no.2451).

⁵⁹ Haws, Scottish Parish Clergy, 144; see also Fasti, 365.

1548 when it became vacant on the death of William Hunter.⁶⁰ He did not hold it long, however, for Master John Houston received a crown presentation to the vicarage four months later, when it was stated that Lindsay had either resigned or was disqualified as a result of his inability.⁶¹ Houston successfully retained possession until before February 1567.⁶² This may well reflect the conflicts in the government at this time.

This pattern of two royal presentations within a relatively short space of time is seen again in connection with the perpetual vicarage of Girvan in the same year. In January, after Quentin Kennedy had resigned the benefice, Master Gilbert Baird was presented by the crown.⁶³ In May 1549, having held the vicarage for only sixteen months, he himself resigned and presentation was made this time to Sir Rolland McNeil.⁶⁴ Retaining the similarity with that early case, McNeil held the benefice at least until 1568, and probably for some time afterwards.⁶⁵

A final example from Glasgow is more straightforward than either of these. When James Inglis resigned the pensionary vicarage of Yarrow, Sir John Stevenson was presented to the benefice in February 1548 while, unusually for appointments made in this way, an annual pension of 20 merks Scots was reserved for his predecessor.⁶⁶ Whatever the reason for the pension - the usual explanation of it being

⁶⁰ 3 Jan. (RSS, iii, no.2585).

⁶¹ 8 May 1548 (RSS, iii, no.2767).

⁶² Haws, Scottish Parish Clergy, 71. Houston may also have been vicar of Rutherglen (Haws, ibid, 97).

⁶³ 2 Jan.1548 (RSS, iii, no.2580).

⁶⁴ 24 May 1549 (RSS, iv, no.853).

⁶⁵ Haws, Scottish Parish Clergy, 96.

⁶⁶ 6 Feb. (RSS, iii, no.2620).

a device to buy off an opponent does not appear totally convincing in this case - Stevenson held the vicarage until some time prior to 1578.⁶⁷

These royal presentations were all unopposed, but there are several examples of parochial benefices where crown presentations during the vacancy of a see did not proceed quite so smoothly. The perpetual vicarage of Kirkintilloch, for example, was the subject of no less than four presentations within fourteen months. On 24 October 1547, Master Gilbert Ostler was presented to the benefice following the death of Alexander Annand.⁶⁸ Less than a month later and with the same cause of voidance stated, Alexander Guthrie was similarly presented.⁶⁹ In February of the following year, Sir John Bryden was given crown presentation when Alexander Guthrie was said to have resigned.⁷⁰ Almost a year to the day after the first presentation, Gilbert Ostler was again presented by the crown on 23 December 1548, when it was said to be void because of simony on the part of Alexander Guthrie and the late Robert Boyd.⁷¹ This case was, unusually, taken to Rome, where in February 1549 John Bryden first revoked a resignation he had arranged to make, then subsequently did resign in favour of James Boyd one month later.⁷² Boyd did not hold the vicarage for very long: he died before 19 February 1551, when Sir Robert Hamilton obtained the benefice by another royal presentation.⁷³ This series of

⁶⁷ Haws, Scottish Parish Clergy, 249.

⁶⁸ RSS, iii, no.2512.

⁶⁹ 16 Nov.1547 (RSS, iii, no.2586).

⁷⁰ 15 Feb.1548 (RSS, iii, no.2642).

⁷¹ RSS, iv, no.15.

⁷² Bryden revokes the proposed resignation, 14 Feb.1549 (PRO 31/9-66/290); Bryden resigns 15 March (Reg. Supp. 2658, f.126).

⁷³ RSS, iv, no.1037.

conflicting presentations seems likely to reflect government dissension in the aftermath of the battle of Pinkie in September 1547 and the conflicting wishes of the earl of Arran and Mary of Guise, although no firm evidence of this has been found. Nor is there clear evidence of how long Hamilton retained his hold on the vicarage.

A similar explanation may be proposed for at least some other cases of this kind. On 8 October 1547, there were two crown presentations to the perpetual vicarage of St. Cuthbert's in Edinburgh. Both were triggered by the death of the previous incumbent, Nicholas Wilkinson. The first presented Robert Hamilton, son of James Hamilton of Stonehouse, to the benefice,⁷⁴ probably reflecting the concern of Arran for extending Hamilton influence. The second presented John Rankin to the vicarage.⁷⁵ The final outcome of this particular case is uncertain, although the fact that it was held by Archibald Hamilton in 1557 may be a pointer to the success of that family.⁷⁶

The second case of this kind involved the vicarage pensionary of North Berwick. This became vacant on the death of Patrick Sinclair and on 28 January 1548, James Brown, teacher at the grammar school in Linlithgow, was given royal presentation to the benefice.⁷⁷ A fortnight later, Archibald Barr was similarly presented to the church.⁷⁸ Given the proximity of the two presentations, the fact that the cause of avoidance was the same in both, and the lack of any mention of the other claimant in both documents, it seems possible that these were effectively rival presentations from within a divided government. An

⁷⁴ RSS, iii, no.2487.

⁷⁵ RSS, iii, no.2488.

⁷⁶ Haws, Scottish Parish Clergy, 214.

⁷⁷ RSS, iii, no.2612.

⁷⁸ 12 Feb.1548 (RSS, iii, no.2632).

alternative interpretation of this case, given that no Hamilton was involved, may be that Brown and Barr were both seeking to obtain the benefice, and were both given royal presentation in the same way as petitioners at the curia were able to have conflicting supplications for the same benefice accepted there. No clue to the success or failure of the presentees is available: by 1557, the vicarage was in the hands of Alexander Wood.⁷⁹

The spread of dates makes it difficult to suggest a firm explanation for a third case of conflicting presentations, although clearly the benefice was in dispute. When the perpetual vicarage of Cambusnethan became vacant on the death of Alexander Balfour, Sir George Vaus was presented to it in July 1547.⁸⁰ Well over a year later, on 10 October 1548, Sir George Bain was given royal presentation, the cause of voidance being given either as the resignation of Peter Balfour, treasurer of Glasgow, or the resignation or incapacity of John Balfour 'now pretended vicar'.⁸¹ Exactly one month later, Archibald Barr was presented, with no mention of any alternative candidate.⁸² In the middle of the following year, John Balfour, who had already obtained it, sought a new provision from the pope, saying that the vacancy had arisen by incapacity, the previous holder not having taken holy orders in the due time.⁸³ Again, the result of all these is uncertain: by 1561, John Hamilton was named as vicar.⁸⁴

⁷⁹ Haws, Scottish Parish Clergy, 191.

⁸⁰ 22 July (RSS, iii, no.2340).

⁸¹ RSS, iii, no.2989.

⁸² 10 Nov.1548 (RSS, iii, no.3016).

⁸³ 4 May 1549 (Reg. Supp. 2673, f.125^v-126); Reg. Supp. 2661, f.7.

⁸⁴ Haws, Scottish Parish Clergy, 35. The Hamilton connection may be explained by the fact that the parish was set in assedation to Sir James Hamilton (Origines Parochiales Scotiae, i, 57-8).

There is at least one clear example of local opposition to a royal nomination. In August 1541, John Jackson was given royal presentation to the vicarage of Durness, the parsonage of which pertained to the bishop of Caithness, following the death of Gilbert Dynnocht.⁸⁵ The following month, Jackson sought a new provision on the grounds that it had fallen vacant in 1535, in a reserved month: in fact, both November and December (the latter a non-reserved month) were noted in the petition.⁸⁶ Both the presentation and the petition were finally successful, but there is evidence of some challenge to his possession. It appears that Thomas Murray, precentor of Caithness, refused to give collation to Jackson and intruded his own candidate - named only as R.B. - into the vicarage. Jackson, however, appealed to David Beaton who summoned Murray to appear at St. Andrews, and finally gave judgment that the benefice be conferred upon Jackson, any collation of R.B. being rescinded. The date of this challenge is not known, but it was successfully thwarted, because Jackson held the vicarage until 1576.⁸⁷

The opposition to the royal presentation at Durness appears to have come from within the diocese, and both royal and papal rights were effectively exercised on behalf of the same claimant. It was, however, quite possible for these rights to be a cause of potential friction when the crown's rights *sede vacante* and papal rights of reservation invoked, for example, when a church fell vacant by death in a reserved month, would both apply. One example when this clash of rights did indeed produce a dispute occurred in 1547, when the perpetual vicarage of Collessie, a church which was appropriated to

⁸⁵ 9 Aug. (RSS, ii, no.4157).

⁸⁶ 17 Sept.1541 (Reg. Supp. 2431, f.250-250^v).

⁸⁷ St.A. Form. ii, 144-6; Haws, Scottish Parish Clergy, 75.

Lindores, became vacant following the death of John Thornton junior. On 3 April of that year, David Bonar petitioned for provision because the death had occurred in a reserved month.⁸⁸ Five days later, Kentigern Livingstone, vicar of Lanark, was presented to the vicarage by the crown, the see being vacant, and he followed this up a few months later by a petition for a new presentation.⁸⁹ Any possession which Livingstone had was short-lived because late in September, Thomas Scot was presented by the crown to the benefice following Livingstone's death.⁹⁰ The Scottish procurator at Rome did not yield so easily, however. James Thornton petitioned for papal provision early the following year, claiming that it was unlawfully obtained, though naming his opponent as James Rolland, rather than Scot.⁹¹ James Thornton's claim may have represented an attempt by the Thornton family to retain the vicarage but, if so, it was unsuccessful, for Scot retained possession through to the Reformation.⁹²

The appointment of a successor to John Gray, parson of Tarvit in St. Andrews diocese, took a not dissimilar course. Unusually for churches to which royal presentation was made, Tarvit was an independent parsonage.⁹³ Gray had assisted Norman Leslie, earl of Rothes in the murder of Beaton. The benefice being declared vacant because of his inability, Nigel Laing was presented *sede vacante* on 19 August 1547, seeking papal provision ten days later.⁹⁴ Almost a year

⁸⁸ Reg. Supp. 2609, f.206.

⁸⁹ 8 April (RSS, iii, no.2241); 4 July 1547 (Reg. Supp. 2616, f.101^v).

⁹⁰ 26 Sept. (RSS, iii, no.2456).

⁹¹ 24 Jan.1548 (Reg. Supp. 2626, f.176-176^v).

⁹² Haws, Scottish Parish Clergy, 44.

⁹³ It was not until 1558 that Tarvit was annexed to the College of the Blessed Virgin Mary (Cowan, Parishes, 196).

⁹⁴ RSS, iii, no.2386. 29 Aug.1547 (Reg. Supp. 2613, f.269; Reg. Supp. 2616, f.118).

afterwards, however, John Stevenson, an apostolic prothonotary, declaring that Gray had resigned the parsonage in the hands of the pope, asked for provision for himself.⁹⁵ Again, the claimant failed to make good his case: when Laing himself resigned in January 1549, John Acheson was given royal presentation, and he successfully held it to the Reformation.⁹⁶

A final example of a clash of royal and papal rights of this kind is the case of the perpetual vicarage of Stirling, a church appropriated to the abbey of Dunfermline. The benefice became vacant on the death of William Thomson in November 1547, and was thus reserved to papal provision. As a result, both John Axelius, and James Thornton petitioned for provision in early December.⁹⁷ The see being vacant, however, it fell also to crown patronage: Robert Auchmowty was duly presented on New Year's Day 1548.⁹⁸ Possibly in order to shake off the competition from Rome, Auchmowty himself asked for a new provision to the vicarage in March 1549,⁹⁹ and this was clearly successful, for he retained possession until some time before July 1583.¹⁰⁰

The crown's right to present to ecclesiastical vacancies while the bishopric itself was vacant was clearly exercised quite extensively with parish churches. As with cathedral prebends, there are also a few instances when the crown appears to have intervened to make

⁹⁵ 2 June 1548 (Reg. Supp. 2647, f.191^V).

⁹⁶ Haws, Scottish Parish Clergy, 233.

⁹⁷ Axelius on 2 Dec. (Reg. Supp. 2623, f.281^V-282); Thornton 5 Dec. (Reg. Supp. 2628, f.176^V-177).

⁹⁸ RSS, iii, no.2578. Auchmowty was steward of the royal household and master almoner in 1549 (RSS, iv, no.222n).

⁹⁹ 15 March (Reg. Supp. 2657, f.26-26^V).

¹⁰⁰ Haws, Scottish Parish Clergy, 224.

appointments to parochial benefices even when there was a duly consecrated bishop in post.

The most obvious example of this is the perpetual vicarage of Fishwick in St. Andrews diocese, the parsonage of which was appropriated to Coldingham priory. In June 1542, while Beaton was still archbishop, the vicarage became void by the death of Thomas Richardson, and James Young was given crown presentation to the benefice, holding it until 1564.¹⁰¹

The vicarage pensionary of Southwick in Glasgow diocese is a slightly less clear case. The parsonage and vicarage of this church were annexed to the Chancellory of the Chapel Royal,¹⁰² and several appointments were made by crown presentation, although the patron was presumably the Chancellor. On 25 November 1539, George Oliver was presented to the vicarage, following the death of Andrew McLean and, as with Fishwick, he successfully retained it until 1574.¹⁰³ Gavin Dunbar was still Bishop of Glasgow when this presentation was made.

The parsonage of Forvie in the diocese of Aberdeen is a slightly puzzling member of this group, in that it was an independent parsonage, which is not known to have been in royal patronage at any time.¹⁰⁴ However, in 1548, after Alexander Stevenson was said to have died or resigned, William Chalmers was first presented on 9 April, and Alexander Anderson, subprincipal of the College of Aberdeen was also given royal presentation seven days later.¹⁰⁵ In both cases, it was claimed that presentation belonged to the crown by right, and collation lay with the

¹⁰¹ 27 June (RSS, ii, no.4718); Haws, Scottish Parish Clergy, 89.

¹⁰² Cowan, Parishes, 186.

¹⁰³ RSS, ii, no.3213; Haws, Scottish Parish Clergy, 222.

¹⁰⁴ Cowan, Parishes, 70.

¹⁰⁵ 16 April 1548 (RSS, iii, no.2720).

bishop, who at the time was William Gordon. However, both presentations were unsuccessful, since Alexander Stevenson appears to have retained his hold on the parsonage till after the Reformation.¹⁰⁶

Seen in the context of the total number of parishes within the country, the scale of intervention of this kind by the crown is relatively small. Nevertheless, it is clear that the crown did, at least on a few occasions, endeavour to exercise patronage when it would appear not to have had the right to do so, and did so successfully.

One group of churches which did not fall within crown rights *sede vacante*, was that of the parishes which remained in lay patronage. Such benefices were however subject to the rules of reservation, and evidence of the influence of the patrons and, in some cases, of opposition to such influence can be traced in the documents which arose from these reservations.

The parsonage of Tough in Aberdeenshire was an independent church in the patronage of the earls of Huntly.¹⁰⁷ In 1543, the church came into the hands of one of the Gordon family. On 8 June, Andrew Arnot resigned in favour of William Gordon and, with the patron's consent, they sought provision for Gordon and an annual pension of 50 merks Scots for Arnot.¹⁰⁸ Later that month, Gordon petitioned for a new provision, stating that he was of noble birth on both sides and also the son of a priest.¹⁰⁹ In this case, the member of the family held it for a relatively short time. In 1549, he resigned the parsonage to the

¹⁰⁶ Haws, Scottish Parish Clergy, 93.

¹⁰⁷ Cowan, Parishes, 199.

¹⁰⁸ Reg. Supp. 2496, f.181^V; Reg. Supp. 2486, f.254^V-255.

¹⁰⁹ 24 June 1543 (Reg. Supp. 2489, f.268^V).

bishop and David Carnegie, having obtained the parsonage by ordinary authority, successfully sought a new provision. The petition stated rather strangely that presentation lay with the treasurer of Caithness, who at that time was William Gordon. David Carnegie briefly appeared as treasurer in 1547 and 1548, and this may represent action by the family to provide a benefice for a rival for the treasurership.¹¹⁰

The Gordons also held the patronage of the parsonage of Essie in Moray.¹¹¹ When George Rothmay resigned the church in the hands of the ordinary early in 1535, William Gordon obtained it by episcopal authority with the consent of the earl of Huntly. On 1 April, he petitioned the pope for a new provision because it was said 'some refuse to accept his possession'.¹¹² He asked for new provisions on three further occasions in 1538 and 1542.¹¹³ Despite his anxiety about retaining the parsonage which appears to have been related to being given dispensations *de non promovendo* which were valid for only two years at a time, he successfully retained the church until at least 1544,¹¹⁴ and may indeed have done so for longer.

A third example of what must have been the exercise of lay patronage concerns a benefice in the patronage of the Somervilles of

¹¹⁰ 14 Feb.1549 (Reg. Supp. 2652, f.191^v). William Gordon became Treasurer of Caithness in March 1547 and held it until about 1566. David Carnegie occurred as Treasurer in both 1547 and 1548, but not thereafter. The appearance of the two individuals in connection with Tough and linked with the treasurership in this way suggests a connection such as is described above (*Fasti*, 69).

¹¹¹ Cowan, *Parishes*, 62.

¹¹² Reg. Supp. 2172, f.240^v-241^v. Gordon was described as the son of a priest and an unmarried woman.

¹¹³ 13 Oct.1538 (Reg. Supp. 2305-f.165-166); 28 Oct.1538 (Reg. Supp.2303, f.58^v-59^v); 12 July 1542 (Reg. Supp. 2461, f.205-206).

¹¹⁴ Gordon's link with the earl of Huntly is suggested by his witnessing bonds of manrent involving the earl several times between 1537 and 1544 (Gordon Papers, *Spalding Club Miscellany*, IV, 202, 205-6, 214).

Carnwath. When the parsonage of Libberton in the diocese of Glasgow fell vacant in 1549, John Somerville, who was said to be of noble birth - a statement which strongly implies that he came from the patron's family - asked for a new provision, stating that he had already obtained it but that he doubted the validity of his possession.¹¹⁵ He also asked to be allowed to hold the parsonage for two years without being promoted to priest's orders. Whether this had any effect on the length of his possession is unclear, but it seems unlikely that it would make a significant difference. By 1559, it was held by Sir Thomas Wedy.¹¹⁶

The Gordon power seems to have gone unchallenged in the two churches noted above. This was not the case, however, with the parsonage of Restalrig, which was in the patronage of the Logans of Restalrig.¹¹⁷ In October 1535, the church was held by Alexander Logan.¹¹⁸ Just over a year later, John Forman petitioned for papal provision, either because the last possessor was not promoted to priest's orders as by law he should be, or because it was void by the death of Richard Bothwell.¹¹⁹ The following day, however, Alexander asked for a new provision, stating that he had received it by ordinary authority and was of noble and baronial birth (a statement which strongly suggests that he came from the patron's family) and that the parsonage was vacant by the death of the previous incumbent.¹²⁰ Forman's challenge, if this is what it was, to the power of the lay patron seems

¹¹⁵ Cowan, Parishes, 132; 4 May 1549 (Reg. Supp. 2661, f.6-6^v; Reg. Supp. 2673, f.221).

¹¹⁶ Haws, Scottish Parish Clergy, 161.

¹¹⁷ Cowan, Parishes, 170-1.

¹¹⁸ 1 Oct. (Reg. Supp. 2186, f.232^v).

¹¹⁹ 15 Dec.1536 (Reg. Supp. 2233, f.143-143^v).

¹²⁰ 16 Dec. (Reg. Supp. 2235, f.136^v).

to have petered out, for Alexander Logan was in possession in 1540 and, in 1555 it was held by John Logan, presumably another of the family.¹²¹

The perpetual vicarage of Forgue in the diocese of Aberdeen provides a rather more unusual example, both because it is unclear where patronage actually lay and because the beneficiaries were not members of the lay family involved. The parsonage had been granted to the abbey of Arbroath in the thirteenth century.¹²² According to one of the petitions, however, the patronage of the perpetual vicarage, established in the fifteenth century, lay with William Crichton, lord of Frendraught and descendant of the original donor. On 2 September 1539, George Houston resigned the vicarage in the hands of the pope and he and George Ogilvy sought provision for Ogilvy and retention of the fruits for life by Houston along with the right of regress should Ogilvy die or resign, stating that Crichton as patron consented to the transfer, and this was duly granted.¹²³ Ogilvy was Houston's nephew, and the resignation seems to have been designed to retain the benefice within the family. Almost a fortnight later, James V wrote to Cardinal Ghinucci on behalf of Ogilvy, who was a royal servant, saying he had heard that the pope had prohibited all regresses and reservations of fruits (and none too soon in James's opinion) but in this case rather sooner than suited Ogilvy or the King, and he asked the cardinal to persuade the Pope to allow this arrangement to stand.¹²⁴ This was clearly successful, for Ogilvy was vicar in 1540 and 1543, by which time

¹²¹ Reg. Supp. 2377, f.66^v; Haws, Scottish Parish Clergy, 207.

¹²² Cowan, Parishes, 69.

¹²³ Reg. Supp. 2353, f.106-107; Mandate for provision (Reg. Lat. 1703, f.220-220^v); reservation of fruits (Reg. Lat. 1703, f.220-222^v); The original grant made no mention of the retention of the patronage by the donor, although this became a commoner practice (I.B.Cowan, 'The medieval church in the diocese of Aberdeen', Northern Scotland, i (1972) 29 and 36-37.

¹²⁴ 15 Sept.1539 (James V Letters, 378-9).

he was chancellor of Dunkeld, while Houston was described as vicar in 1542.¹²⁵ The extent of the patron's positive interest in advancing this transfer cannot be certain, but it does appear as if Crichton at least acquiesced in an appointment which was presumably designed to secure the vicarage for Houston's family.

In a few such cases, there is not the same certainty that the patron's wishes were granted. The appointment of a successor to John Gibson, who died in August 1544, as rector of Ruthwell, for example, is uncertain as regards its final result. John Oliver, who was presented by the patron Patrick Murray of Cockpool, asked for a commission by brief on 31 January 1545, because Gavin Dunbar, archbishop of Glasgow had refused to collate him.¹²⁶ He followed this up a fortnight later with a further petition seeking a new provision.¹²⁷ Whether the archbishop's opposition to the patron's wishes bore fruit is unclear, as in fact is the final result, for no evidence has been found to indicate the success or otherwise of Oliver's petition.

The parsonage of Torry provides an example of what appears to be a dispute within the family of the patron, the Wardlaws of Torry. In May 1549, David Gourlay sought a commission from the pope because he could not get justice from John Spittal, official of St. Andrews, in his dispute with James Wawane.¹²⁸ The case had come to the official's court because Wawane had resigned the parsonage at Rome in favour of Thomas Crichton, but had reserved the right of regress. Crichton had subsequently resigned the benefice in the hands of Cardinal Beaton who

¹²⁵ Reg. Supp. 2372, f.178^V-179; Reg.Supp.2480, f.189^V; Haws, Scottish Parish Clergy, 92, where Houston is transcribed as Ogston.

¹²⁶ Reg. Supp. 2532, f.56^V-57; Brief recorded 20 Feb.1545 (Brev. Lat. 37, f.78^V).

¹²⁷ 12 Feb. (Reg. Supp. 2532, f.59).

¹²⁸ 4 May (Reg. Supp. 2661, f.5^V; Reg. Supp. 2672, f.39).

had appointed Gourlay, but the official declared this provision void because of Wawane's prior rights.¹²⁹ It seems likely too that Gourlay was related to Margaret Gourlay, the widow of the previous lord of Torry. The following year, Elizabeth Beaton, sister of the Cardinal and wife of John Wardlaw, the current Lord Torry, was given the gift of the action which Margaret Wardlaw had against John and Elizabeth because Margaret had been put to the horn at the instance of Wawane for her wrongful occupation of certain lands.¹³⁰ While it is not clear whether Elizabeth Wardlaw was actively supporting Wawane against Gourlay, it is certainly the case that they were both opposing Margaret Gourlay. The final result is uncertain. In 1554, the parsonage was held by Jerome Cheyne, and by the Reformation Edward Bruce, who had previously also been in dispute with Margaret Gourlay, was the parson.¹³¹

There is at least one parish church where the lay patron seems to have failed to secure the appointment of his nominee, though this failure may have been related more to uncertainty about where the patronage really lay than to any other cause. The parsonage of Kinnoull, which had been granted to the canons of Cambuskenneth in the fourteenth century had subsequently become independent after much litigation between the abbey and other potential patrons.¹³² In November 1538, John Leslie asked for a new provision, having received it after the resignation of William Nori, when the (nameless) patron was said to be under the tutelage of John Campbell of Lundy.¹³³ Just over a year

¹²⁹ J.Ollivant, The Court of the Official in pre-Reformation Scotland (Edinburgh, 1982), 84.

¹³⁰ 28 March 1550 (RSS, iv, no.626).

¹³¹ 20 August 1549 (Reg. Supp. 2667, f.296-296^v); Haws, Scottish Parish Clergy, 237.

¹³² Cowan, Parishes, 115-6.

¹³³ 26 Nov. (Reg. Supp. 2312, f.164-164^v).

later, James V wrote to the auditors of the Sacred Palace to challenge Leslie's right in the parsonage. The rector had resigned at Rome in favour of Leslie with the tutor's consent, reserving the fruits and regress. When William of Sanquhar, the patron, emerged from tutelage, he appointed another claimant, but the archbishop of St. Andrews refused to institute him. Acting on a complaint from William, the King supported his claimant.¹³⁴ The identity of this claimant put forward by William of Sanquhar is suggested by a petition of 6 June 1540, when Edward Crichton sought a commission to hear the case against John Leslie, whom he stated had intruded himself in the parsonage.¹³⁵ The dispute between Crichton and Leslie continued for several years until, in 1547, a compromise was finally reached. Edward resigned all right to the benefice to the pope in favour of John in return for an annual pension of 80 merks Scots, with William, Lord Crichton acceding. Together they sought confirmation of this arrangement.¹³⁶ This reference to William, Lord Crichton, along with other references, such as the presence of both John Leslie and Edward Crichton 'pensionary of Kynnoul' as witnesses to a charter of William, Lord Crichton of Sanquhar and Kinnoul,¹³⁷ and the naming of Lord Crichton as the patron in a royal presentation of 1550 (for which see below) make it clear that William of Sanquhar, patron in James V's letter of 1540, was William Lord Crichton, not William Hamilton of Sanquhar as identified by Hannay. It appears as though the patron's nominee was only successful in securing the consolation of an annual pension. Leslie however retained the

¹³⁴ 1 Jan.1540 (James V Letters, 386).

¹³⁵ Reg. Supp. 2376, f.235-235^v; 24 Nov.1540 (Brev. Lat. 31, f.32^v).

¹³⁶ 10 Nov.1540 (Reg. Supp. 2396, f.166-166^v); 5 April 1541 (Reg. Supp. 2434, f.223); 4 Oct.1541 (Reg. Supp. 2434, f.223-224); 24 Aug.1547 (Reg. Supp. 2618, f.114^v).

¹³⁷ 28 July 1545 (RMS, iii, no.3201). For Hannay's identification, see n.134 above.

parsonage until his resignation in November 1550, when David Carnegie was given a royal presentation to the church.¹³⁸

A second patron also failed to have his nominee appointed, in this case because of a refusal by the ordinary to accept the presentation. There is a further dimension to this case in that the patronage of the church, the parsonage of Inverarity in St. Andrews diocese, was rather unusually held alternately by the Lindsays, earls of Crawford and by the archbishops of St. Andrews.¹³⁹ In this case, however, the archbishop appears to have been acting primarily in his capacity as the ordinary rather than as alternate patron. The dispute began in the late 1530s with the perpetual vicarage of the parish, a benefice which seems to have been created temporarily at the time. Late in 1537, James Rolland sought a commission by brief to hear his case, claiming that he had been presented to the vicarage by David, earl of Lindsay but that the archbishop had refused to admit him and had collated Hugh Lindsay instead.¹⁴⁰ After some litigation, this was resolved in favour of Lindsay on 24 September 1541, when James Rolland, having resigned his right in the benefice, asked for an annual pension of 8 merks Scots on the fruits of the vicarage with Lindsay's agreement.¹⁴¹ Rolland's attention was in fact soon transferred to the 'senior' benefice of the parish. This had been held, and then retained after he had been appointed bishop of Libaria, by William Gibson who was also provost of Restalrig.¹⁴²

¹³⁸ 24 Nov.1550 (RSS, iv, no.978). Edward Crichton transferred his pension to David Methven on 25 Aug.1550, the day after obtaining it (Reg. Supp. 2618, f.288-288^v; Reg. Lat. 1801, f.394^v-395^v).

¹³⁹ Cowan, Parishes, 87.

¹⁴⁰ 13 Dec.1537 (Reg. Supp. 2268, f.67).

¹⁴¹ 7 Feb.1539 (Reg. Supp. 2319, f.83^v-84); 2 Feb.1540 (Reg. Supp. 2365, f.10-10^v); 24 Sept.1541 (Reg. Supp. 2432, f.186^v).

¹⁴² 5 May 1540 (James V Letters, 397); 15 Aug.1541 (Reg. Supp. 2427, f.291^v).

Following Gibson's death, David Methven, one of the Scottish procurators at Rome, asked for provision to the parsonage in September 1542.¹⁴³ A month later, James Rolland appeared on the scene again. On 5 October, he sought a new provision to the benefice, stating once more that he had been presented by David, earl of Crawford following Gibson's death in July, as a 'non-reserved' month.¹⁴⁴ Three months later, it became clear that Cardinal Beaton was again disputing his right. In January 1543, Rolland claimed that the archbishop had refused to institute him to the parsonage and he had appealed to the apostolic see; he asked again for a new provision.¹⁴⁵ Rolland was a member of the University of St. Andrews and served on several occasions as a commissary in the court of the Official.¹⁴⁶ It is possible that Beaton's resistance to Rolland's appointment may have been personal or reflected some aspect of his relations with the University: there is however no evidence to support this. What does appear to be the case is that he wished to secure the parsonage for a member of his own family. In May 1544, Walter Beaton, the cardinal's elder brother, asked for papal provision, claiming that, following a dispute between Rolland and himself, his opponent had resigned in his favour, by which time Beaton had legatine powers.¹⁴⁷ Although the major dispute was between these two candidates, David Methven had not given up his claim. On five occasions in 1545, he sought prorogations of his provision beyond the regular three years in order to oust what he described as the intruder.¹⁴⁸ The Beatons

¹⁴³ 6 Sept. (Reg. Supp. 2470, f.85^V).

¹⁴⁴ Reg. Supp. 2469, f.94-94^V.

¹⁴⁵ 14 Jan.1543 (Reg. Supp. 2476, f.87^V-88).

¹⁴⁶ S.Ollivant, The Court of the Official in pre-Reformation Scotland, 50.

¹⁴⁷ 22 May (Reg. Supp. 2515, f.35).

¹⁴⁸ 4 May (Reg. Supp. 2539, f.174^V); 9 May (Reg. Supp. 2540, f.261^V); 11 May (Reg. Supp. 2539 f.294^V-295); 17 May (Reg. Supp. 2540, f.268^V); 28 May (Reg. Supp. 2543, f.229).

appear to have been successful in the short run, however. When James Beaton petitioned for provision on 11 May 1545, he stated that he had been presented by the earl of Crawford and instituted by the archbishop.¹⁴⁹ There is no further record at Rome of a dispute, and Rolland finally resigned his rights in the parsonage.¹⁵⁰ The lay patron may have eventually accepted the wishes of the Cardinal. The ultimate beneficiary seems in fact to have been Hugh Lindsay who, having first obtained the vicarage with the support of Cardinal Beaton, also held the parsonage by 1561.¹⁵¹ In this particular case, Cardinal Beaton appears to have acted very much in the role of ordinary, rather than exercising power under the Indults of 1539 and 1544.

The right of patronage to parish churches, which was held alternately by an ecclesiastical and a lay patron in the case of Inverarity, often lay solely with ecclesiastical patrons within cathedrals, by virtue of the massive appropriation of both parsonages and vicarages to form prebends within the cathedrals. When the church was the prebend of either a dignitary or a canon, patronage usually lay with that individual. An examination of all the supplications for parish churches during this period has failed to identify any where the appointment can be clearly (or even faintly) identified with the exercise of such patronage. This may simply be because it is more difficult to establish relationships at this level of the church than with the greater benefices: close cross-checking of Vatican records with local records

¹⁴⁹ Reg. Supp. 2539, f.294^v-295.

¹⁵⁰ St. A. Form., ii, no.496.

¹⁵¹ Haws, Scottish Parish Clergy, 111.

might establish links. Nevertheless, it remains a little surprising that, at a time when, for example, families were establishing *de facto* possession of benefices, no family links between canons and the vicarages of their prebends can be found in these records.

This is not the case with churches in episcopal patronage. The patronage of a large number of such churches was permanently held by bishops either directly or by annexation of the original church to the episcopal mensa at some stage. The unopposed exercise of these rights can be demonstrated in several cases during this period. The parsonage of Collace, for example, was an unappropriated parsonage in the patronage of the archbishop of St. Andrews.¹⁵² Following the death of Alexander Fotheringham in September 1537, one of the non-reserved months, Archibald Hay was granted it by the archbishop. In February 1539, he successfully petitioned for a new provision, saying that he was concerned about the validity of his possession.¹⁵³ Hay, who was cousin to David Beaton and author of a panegyric to the Cardinal, retained it until his own death in 1547 when John Douglas, like Hay, principal of St. Mary's College, was given royal presentation to the parsonage.¹⁵⁴

The archbishop of St. Andrews also held the patronage of another unappropriated parsonage, that of Kirkforthar.¹⁵⁵ This was held by Henry Lumsden, who was chamberlain of the regality of St. Andrews from the 1520s and subsequently, while giving up that office, continued in David Beaton's service and acted as his commissioner at various times.¹⁵⁶ In March 1540, Lumsden resigned the parsonage and, together

¹⁵² Cowan, Parishes, 33.

¹⁵³ 7 Feb. 1539 (Reg. Supp. 2319, f.84^v-85).

¹⁵⁴ Sanderson, Cardinal of Scotland, 12, 122; 20 Sept. (RSS, iii, no.2442).
The see was technically vacant at this date.

¹⁵⁵ Cowan, Parishes, 120.

¹⁵⁶ Sanderson, Cardinal of Scotland, 133-4.

with Alexander Ogilvy of Glasschant, one of three sons of Walter Ogilvy of Dunlugus, successfully petitioned that Ogilvy should be provided to the benefice while Henry should retain all the fruits for life.¹⁵⁷ Whatever the short-term outcome of this arrangement, it was Henry Lumsden who was described as parson at the Reformation. Having secured the benefice presumably at the behest of James Beaton when he was archbishop, he retained it in terms at least of its fruits through to 1560.¹⁵⁸

A third church in the patronage of the archbishop of St. Andrews was the parsonage of Carrington in Lothian.¹⁵⁹ Early in 1548, James Hamilton, son of Gavin Hamilton of Orbiston, was presented to the benefice by the crown when it became vacant following the death of John Megot.¹⁶⁰ The see was indeed technically vacant at that time, although John Hamilton had both been granted the temporalities and been transferred from the bishopric of Dunkeld some time before. It seems likely that his influence was already being exercised and that this was a further case of the family extending its influence by the appointment of members of the family to ecclesiastical benefices. The appointment was certainly effective in that James retained the parsonage until some time before October 1570.¹⁶¹

Unlike these three parsonages, the perpetual vicarage of Stronsay in Orkney was in the patronage of the bishopric not because of direct

¹⁵⁷ 21 Mar. (Reg. Supp. 2396, f.159-161^V); Provision (Reg. Lat. 1722, f.14^V-16); reservation of fruits (Reg. Lat. 1714, f.59-62).

¹⁵⁸ Haws, Scottish Parish Clergy, 147.

¹⁵⁹ Cowan, Parishes, 29.

¹⁶⁰ 27 Jan (RSS, iii, no.2607); Hamilton seeks provision, 7 Dec.1548 (Reg. Supp. 2649, f.254^V).

¹⁶¹ Haws, Scottish Parish Clergy, 38-9; for Hamilton influence generally, see Finnie, E., 'The house of Hamilton: patronage, politics and the church', IR, xxxv (1985), 3-28.

patronage, but because the parsonages of the three Stronsay churches which formed a joint cure were appropriated to the episcopal mensa.¹⁶² On 12 March 1541, James Maxwell was given crown presentation to the vicarage, having himself demitted or renounced the benefice, and the see being vacant.¹⁶³ The vacancy in the bishopric followed the death of Robert Maxwell, who was bishop from 1526 until some date before 9 January 1541. Since James Maxwell was already in possession prior to this presentation, it appears most probable that he was related to the bishop in some way and owed his appointment, which he retained through the changes wrought by the constitutional developments of 1544, to this connection.¹⁶⁴

Episcopal appointments of this kind to parish churches could also engender some opposition. The perpetual vicarage of Montrose in the diocese of Brechin, which was in episcopal patronage because the parsonage was annexed to the bishop's mensa, provides one example of this.¹⁶⁵ When Henry Rough died in May 1543, John Hepburn, clerk of the diocese, obtained the vicarage by ordinary authority. On 15 June, he sought a new papal provision because he doubted the validity of his ordinary institution - possibly because Rough had died in a reserved month - notwithstanding his defect of birth as the son of a bishop and an unmarried woman.¹⁶⁶ This suggests that he was a natural son of John Hepburn, bishop of Brechin. The date of Rough's death was such as to encourage the possibility of other claimants, and David Bonar, one of the procurators at Rome, petitioned for provision for himself only

¹⁶² Cowan, Parishes, 192-3.

¹⁶³ RSS, ii, no.3904.

¹⁶⁴ Haws, Scottish Parish Clergy, 230.

¹⁶⁵ Cowan, Parishes, 150.

¹⁶⁶ Reg. Supp. 2495, f.79^v.

nine days later.¹⁶⁷ This seems to have been a short-lived, and perhaps a half-hearted, challenge to the bishop's nominee. The following day, John Hepburn himself petitioned for provision because Rough had died in a reserved month, and this appears to have been successful for he retained the vicarage through until 1568.¹⁶⁸

The parsonage of Kirkchrist, which was in the patronage of the bishop of Galloway provides a more complex example of such opposition.¹⁶⁹ On 27 July 1541, John Lethane resigned the parsonage in the hands of the pope in favour of John Spens, and together they petitioned for provision for Spens, while Lethane was to retain all the fruits and the right of regress.¹⁷⁰ In June 1543, John Dury stated that he had been appointed to the parsonage by Andrew Dury, bishop of Galloway, when the benefice had become vacant on the death of Lethane in May of that year; he asked for a new provision since he doubted the validity of this appointment, possibly because Lethane had died in a reserved month.¹⁷¹ Whether the original resignation had been designed to thwart a possible appointment by the bishop as patron is uncertain, but that was what Spens sought to achieve. Spens twice sought a prorogation of his provision in order to oust his opponent, followed by a request for a new provision.¹⁷² In June 1548, Spens asked for a provision *si neutri*, following litigation instigated by him at the curia against Dury.¹⁷³ Dury however had himself instigated litigation against

¹⁶⁷ 24 June 1543 (Reg. Supp. 2495, f.70^v).

¹⁶⁸ Haws, Scottish Parish Clergy, 183.

¹⁶⁹ Cowan, Parishes, 150.

¹⁷⁰ Reg. Supp. 2435, f.42-42^v; 17 April 1542 (Reg. Supp. 2453, f.245^v-246).

¹⁷¹ 25 June (Reg. Supp. 2495, f.68).

¹⁷² 26 June 1545 (Reg. Supp. 2555, f.163); 18 Feb.1546 (Reg. Supp. 2564, f.288); 15 Oct.1546 (Reg. Supp. 2585, f.220).

¹⁷³ 15 June (Reg. Supp. 2637, f.31^v-32).

Spens in Scotland. In the summer of that year the crown granted Dury the escheat of all the goods of John Spens which pertained to the Queen because he had been declared rebel and put to the horn following an action against him by John Dury, described as parson of Kirkchrist, regarding the taking up of the fruits of the vicarage.¹⁷⁴ The case came before the lords of Council at the end of 1548: they decided in favour of Spens, who appears to have held it in 1550, although it is not known whether he did so for much longer.¹⁷⁵ The bishop's wishes appear to have been thwarted in this case.

The parsonage of Tynninghame was a cause of dispute for a different reason, namely the long delay in establishing the finances of the new College of St. Mary's, to which the church was nominally annexed in 1537. In the middle of the previous year, John Hay petitioned for a new provision to the parsonage while it was still independent and in the patronage of the archbishops of St. Andrews.¹⁷⁶ On 11 February 1537, the parsonage being united to the 'college of clerks and priests of St. Andrews', Hay was granted all the fruits of the church for life.¹⁷⁷ John Hay was James Beaton's nephew, and his original appointment by his uncle was presumably intended to provide support for a member of the Beaton family. However, the annexation of the parsonage to the new college does not appear to have been entirely welcomed by Hay. He was said to have resigned the fruits of the benefice to the college on 7 February 1539, when Walter Mar was

¹⁷⁴ 17 Aug. 1548 (RSS, iii, no. 2907).

¹⁷⁵ Andrew Dury, as bishop, declined to accept Spens, but the Lords gave judgment in Spens' favour 'for oucht that thai haif yit sene' (ADCP, 577-8, 581-3).

¹⁷⁶ Cowan, *Parishes*, 203; 5 July 1536 (Reg. Supp. 2220, f. 145^v); 24 July 1536 (Reg. Supp. 2218, f. 15^v-16).

¹⁷⁷ Reg. Lat. 1673, f. 317-8.

authorised to take possession of the fruits by the college staff, and following James Beaton's death Cardinal Beaton granted Mar institution.¹⁷⁸ On three occasions in 1538 and 1539, the last two of which were after Mar's institution, Hay asked for new provision, because he doubted the validity of his right and because the erection of the college was proceeding slowly and his resignation was effectively not active.¹⁷⁹ A further explanation for the dispute was suggested when Hay sought a commission against spoliators of the parsonage: he claimed that he had been promised either a benefice of equal value or a pension on the benefice, but that this had not been done.¹⁸⁰ On the other side, there is a record of payment to two notaries and bearers who had executed letters against Hay regarding the parsonage, dated 1542.¹⁸¹ John Hay continued his campaign with a further request for a provision on 10 January 1542, when he said that David Beaton was supporting the priests of St. Mary's College who had been intruded into the benefice.¹⁸² The final outcome is uncertain: what is clear is that the patron's wishes, whether those of James and David Beaton or the staff of St. Mary's College, were not accepted without opposition from the incumbent.

Episcopal influence might also be exercised more indirectly. There are at least two instances where it can be seen in appointments made to vicarages of parishes whose parsonages were prebends within their dioceses and were in episcopal patronage. In neither case, however, was this influence exercised unopposed. When the vicarage of Kingussie

¹⁷⁸ Sanderson, Cardinal of Scotland, 122.

¹⁷⁹ 12 June 1538 (Reg. Supp. 2292, f.95); 29 March 1539 (Reg. Supp. 2353, f.51-51^v); 28 April 1539 (Reg. Supp. 2329, f.211^v-212).

¹⁸⁰ 15 Nov.1539 (Reg. Supp. 2355, f.24^v-25).

¹⁸¹ St.A. Rent., 138.

¹⁸² Reg. Supp. 2469, f.182-182^v.

fell vacant following the death of Thomas Brown, John Burnet was provided by apostolic authority late in 1534.¹⁸³ In August of the following year, he asked for a new provision because he thought the benefice might still be regarded as vacant.¹⁸⁴ This concern for the security of his possession may have been well-founded for, the following month, John Stewart, Alexander Stewart and Burnet were all said to be staking their claims in competition with Patrick Stewart, who sought provision notwithstanding his defect of birth and age.¹⁸⁵ This qualification suggests that he may have been the natural son of Alexander Stewart, bishop of Moray from 1529 to 1537, and that the bishop was instrumental in his appointment through his control of the prebend. Almost two years later, the dispute appears to have been settled: John Burnet ceded his right in the vicarage in favour of Patrick who asked for surrogation in that right and provision in April 1537.¹⁸⁶ No further record of the dispute has been traced: although David Carnegie was described as vicar of Kingussie in August 1545,¹⁸⁷ it is perfectly possible that Stewart retained it until sometime before that date.

The second example also concerns the diocese of Moray under Patrick Hepburn, Stewart's successor as bishop. After Thomas Hay died in April 1543, William Gordon, chancellor of the diocese, obtained the vicarage of Duffus by special reservation in July of that year.¹⁸⁸ Early in 1544, however, he faced opposition from William Hepburn, who sought

¹⁸³ 3 Nov. 1534 (Reg. Lat. 1662, f.115^v-118^v).

¹⁸⁴ 31 Aug. 1535 (Reg. Supp. 2185, f.59-59^v).

¹⁸⁵ 25 Sept. (Reg. Supp. 2185, f.113^v-114).

¹⁸⁶ 24 April (Reg. Supp. 2245, f.30-30^v).

¹⁸⁷ RSS, iii, no.1865.

¹⁸⁸ 20 July (Reg. Supp. 2489, f.164^v-165).

provision *in commendam* till he was 18 and then *in titulum*, admitting that he was the son of a priest and an unmarried woman.¹⁸⁹ The parsonage was a prebend of the cathedral and in episcopal patronage,¹⁹⁰ so it seems likely that the bishop's influence was extending down to the vicarage, and that William was one of his family and possibly even his son. It is not clear whether he was successful at least in the short run, because in 1545 William Lyle appears as vicar.¹⁹¹ However the parsonage was held first by Patrick Hepburn, son of the bishop, and subsequently by a William Hepburn from 1552 until 1562.¹⁹² It is possible that the two William Hepburns are identical and that this individual, having first held the vicarage, then succeeded a relative in the prebend, though the evidence has not been found to confirm this.

The other major source of ecclesiastical patronage in parishes was the monasteries, for a large number of churches were appropriated to these houses. Given that patronage within any particular religious house might be influenced by several individuals, it is not always easy to identify the exercise of such patronage. Nevertheless, there are several instances where such influences can be identified, perhaps particularly where the head of the house seems to have exercised his authority.

The rights of monastic patrons were exercised without encountering any opposition on several occasions. Successive Beaton abbots of Arbroath succeeded in placing members of the family in three

¹⁸⁹ 19 Feb. 1544 (Reg. Supp. 2505, f.106^v).

¹⁹⁰ Cowan, Parishes, 49.

¹⁹¹ Moray Reg., 360.

¹⁹² Haws, Parishes, 66.

churches appropriated to that house. The first two of these were linked together in a transaction which was a side-effect of David Beaton's own resignation of the commendatorship of Arbroath in hands of the pope in favour of his nephew James Beaton, in 1545.¹⁹³ On 22 March 1546, when James Beaton was provided to Arbroath, David's son, Alexander, was also given all the fruits of the parsonages of Abernethy and Monifieth as a gift from his father.¹⁹⁴ This transaction was not strictly an appointment to a cure, in that the two churches concerned were united to the abbey of Arbroath and were both served by pensionary vicars. Alexander Beaton was described as parson of Abernethy at the Reformation, so clearly the gift was successfully retained in the intervening years.¹⁹⁵

The other church appropriated to Arbroath which was put in Beaton hands was the perpetual vicarage of Banff, this time presumably through the offices of James Beaton during the short period when he was commendator of the abbey. On 16 March 1548, James Beaton said that he had been given the vicarage *in commendam* till his 18th year and then fully by apostolic authority on 28 August 1547, following the death of Bernard Cargill, his predecessor. He felt however that he could not publish the commend in time and sought prorogation for 6 months.¹⁹⁶ The mention in the supplication of James's status as the son of a prelate indicates that he was another son of the Cardinal, legitimated at the same time as Alexander, and therefore cousin to the commendator. Later that year, James Salmond obliged on his behalf for the annates of provision and, although it is not clear how long he held

¹⁹³ For Beaton's resignation, see above, p.96-97.

¹⁹⁴ Reg. Vat. 1672, f.133-133^v; see also St. A. Form., ii, 331. Alexander was legitimated on 1 August 1545 (RSS, iii, no.1263).

¹⁹⁵ Cowan, Parishes, 3-4; Haws, Scottish Parish Clergy, 6).

¹⁹⁶ Reg. Supp. 2642, f.238^v-239.

the vicarage, there is no reason to doubt that he did retain it for some time.¹⁹⁷

Robert Cairncross, abbot of Holyrood, appears to have indulged in the same practice. When the perpetual vicarage of Twynholm, one of several churches in the diocese of Galloway appropriated to Holyrood, fell vacant, John Cairncross petitioned the papacy for a new provision in March 1539. He claimed that he had already obtained possession by ordinary authority, but that some doubted this provision, and this was the reason for his request, made notwithstanding his defect of birth as the son of a priest and unmarried woman.¹⁹⁸ Given this statement, it seems likely that he was the natural son of the abbot legitimated in the preceding year.¹⁹⁹ Although Robert Cairncross was transferred to the bishopric of Ross in November 1538, John's petition suggests that his ordinary provision predated his petition by some time and could therefore have taken place before Robert's transfer. There is no evidence of opposition to his appointment other than the vague statement in this supplication. In the light of this, it seems likely that he retained possession for some time.

In these instances, the family connection with the head of the religious house was explicit or, in the last case, a reasonable assumption. There is one instance where a family connection seems likely, although not perhaps so clear. This relates to the perpetual vicarage of Inverkip, a church which was appropriated to Paisley.²⁰⁰ The abbot of Paisley from 1525 until 1547 was John Hamilton. In March 1538, John Ballantyne sought a new provision, having previously

¹⁹⁷ 30 Dec. 1548 (PRO 31/9-33/246).

¹⁹⁸ 22 March (Reg. Supp. 2341, f.217-218).

¹⁹⁹ 2 September (RSS, ii, no.2366).

²⁰⁰ Cowan, Parishes, 89.

obtained it by ordinary authority.²⁰¹ He held it for only a further 19 months for, on 25 September 1539, he was said to have resigned in the hands of the pope, and William Hamilton asked for provision, while all the fruits were to be reserved to John for life and regress would be given to William if John died or resigned, and this petition was granted.²⁰² Hamilton held the vicarage until he resigned in 1550.²⁰³ The likelihood of a connection with the abbot's family is strengthened by the fact that he was appointed archdeacon of the Chapel Royal in 1543 'by presentation of the Queen and her governor', suggesting that the influence of the earl of Arran, brother of the abbot of Paisley, was instrumental in the appointment.²⁰⁴

The perpetual vicarage of Carmunnock may also illustrate the influence of John Hamilton when abbot of Paisley. When it became vacant following the death of James Forester, Archibald Hamilton, parish clerk of Bothwell (another Hamilton church) was given royal presentation to the vicarage on 22 September 1547.²⁰⁵ In this case, there was a further source of Hamilton influence in that the manor of Carmunnock was the property of that family.²⁰⁶ Archibald Hamilton retained the vicarage at least until 1557.²⁰⁷

Such activity on behalf of members of an abbot's family was likely to be widespread. The perpetual vicarage of Pencaitland, the parsonage

²⁰¹ 10 March (Reg. Supp. 2278, f.268-268^v).

²⁰² Reg. Supp. 2353, f.107-108; Provision (Reg. Lat. 1701, f.44^v-45^v); Regress of fruits and reservation of regress (Reg. Lat. 1701, f.45^v-46^v).

²⁰³ RSS, iv, no.647.

²⁰⁴ RSS, iii, no.498.

²⁰⁵ RSS, iii, no.2446.

²⁰⁶ OPS, i, 64.

²⁰⁷ Haws, Scottish Parish Clergy, 37.

of which was united to the abbey of Dryburgh, may have been affected in this way.²⁰⁸ James Stewart was commendator of the abbey from 1523 until 1547. In August 1535, William Stewart sought new provision because, despite having obtained provision by ordinary authority, he doubted the validity of this and feared that it might be regarded as being vacant, and this request was repeated almost two years later.²⁰⁹ There is no evidence that his possession was in fact threatened in any way, and he held the vicarage until 1548.²¹⁰ Although a family link with John Stewart cannot be proved, it does seem at least possible.

Apart from members of the abbot's family, there were occasions when the head of a religious house might appoint others who were associated with them in various ways to churches appropriated to the house. An example of this practice can be seen with the vicarage of Arbroath which, not surprisingly, was appropriated to the nearby abbey. In 1535, James Auchmowty, who was one of David Beaton's household and acted from time to time as chamberlain of Arbroath, was presented by the abbot to the vicarage.²¹¹ Following James's death, his brother Robert Auchmowty, granter in the abbey, was presented by the crown in October 1547, during the vacancy in the see and while James Beaton was abbot.²¹² Robert retained possession of the benefice till 1578.²¹³

In all these cases, the wishes of the head of the religious house appears to have been fulfilled without evidence of opposition from any

²⁰⁸ Cowan, Parishes, 162.

²⁰⁹ 29 Aug. 1535 (Reg. Supp. 2190, f.10^v-11); 2 March 1537 (Reg. Supp. 2239, f.52^v-53^v).

²¹⁰ RSS, iii, no.2985.

²¹¹ 13 Dec. 1535 (Arb. Lib., ii, no.830); for James Auchmowty's links with David Beaton, see Sanderson, Cardinal of Scotland, 27.

²¹² 3 Oct. 1537 (RSS, iii, no.2478); Sanderson, ibid., 221.

²¹³ Haws, Scottish Parish Clergy, 215.

source. This was not always the case, however; there are many examples of churches appropriated to monastic houses where appointments made apparently by abbots or other heads ran into opposition from other petitioners. The efforts of James Sandelands, preceptor of the Knights Hospitallers' house at Torphichen, to secure possession for his nominee to the perpetual vicarage of Aboyne, the parsonage of which was appropriated to the house, did not go unchallenged. When the benefice fell vacant on the death of Robert Scheves, Robert Fraser, describing himself as treasurer of Ross, asked for provision to the vicarage on 27 April 1548, saying that presentation normally lay with the preceptor of Torphichen; the request was repeated twice within the following month, when he additionally described himself as of noble birth.²¹⁴ There is in fact no evidence that he was treasurer of Ross.²¹⁵ His attempt to secure the vicarage by papal authority was to come to grief for, late in 1548, the patron, James Sandelands, preceptor of the house, was said to have presented Arthur Telfer to the ordinary for institution and he had been properly put in possession. Because Fraser was litigating at the papal court, Telfer now sought a new provision to secure his position.²¹⁶ Whatever the immediate outcome, the evidence is clear that Telfer successfully retained possession of the benefice until after the Reformation, vindicating the authority of the patron against Fraser's challenge.²¹⁷

²¹⁴ 27 April (Reg. Supp. 2645, f.154-154^v); 5 May (Reg. Supp. 2631, f.258-258^v); 23 May (Reg. Supp. 2631, f.257^v-258).

²¹⁵ See Fasti, 280-1 for names of Treasurers. It is possible that Fraser was one of four natural sons of Paul Fraser, dean of Ross from 1520 to 1545. They were legitimated on 28 March 1544 (RMS, iii, no.3006).

²¹⁶ 20 Nov. 1548 (Reg. Supp. 2671, f.35-35^v).

²¹⁷ Haws, Scottish Parish Clergy, 7.

There are at least two cases where members of the families of recent abbots were successful in retaining parochial benefices against opposition, and where it is at least not unlikely that they had the support of the house in doing so. Two members of the Shaw family, George and Robert, were abbots of Paisley earlier in the sixteenth century. Robert became bishop of Moray in 1525 and died two years later. The vicarage of Kilbarchan, a parish appropriated to the abbey of Paisley,²¹⁸ was kept in the hands of their family after their deaths. In July 1541, James Shaw resigned in the hands of the pope and in favour of Simon Shaw, described as a canon of Glasgow, but retaining all the fruits and other revenues and the use of the house for life together with the right of regress if Simon yielded or died, and this petition was successful.²¹⁹ In the course of the next year, however, the family's possession was twice threatened. First of all, on 6 December, the crown presented Peter Huchesoun to the vicarage, which was said to be vacant by the inability of John Duncanson who was at the horn for seeking the archdeaconry of Moray.²²⁰ Then in June of the following year, Adam Cunningham petitioned the pope for provision to the benefice, claiming that it was void by the death of Alexander Harvey in a reserved month; it is clear that opposition to the claim was expected, for Cunningham asked that other claims should be treated as null and void on grounds of incapacity.²²¹ The Shaws may in fact have retained possession throughout this period. Certainly, Robert reappeared in January 1543, seeking provision *perinde valere* both to

²¹⁸ Cowan, Parishes, 94.

²¹⁹ 27 July (Reg. Supp. 2427, f.22^V-23^V); Provision (Reg. Lat. 1714, f.15-16); Reservation of fruits and rights of regress (Reg. Lat. 1747, f.198-199).

²²⁰ RSS, ii, no.4336.

²²¹ 19 June 1542 (Reg. Supp. 2459, f.140^V).

correct the erroneous value previously stated for the vicarage and, more significantly, to put on record the fact that he had been dispensed from defect of birth as the son of a Cluniac abbot and an unmarried woman, clearly implying his link with Paisley's previous abbot.²²² This was not sufficient to oust his rivals, for though John Duncanson resigned his rights almost two years later, it was only in favour of William Alan, and the newcomer twice petitioned again himself, on the first occasion seeking prorogation of his provision on the grounds that he still had to oust the intruder, James Shaw.²²³ It is the case, however, that James Shaw, presumably as the holder of the fruits, remained vicar in 1546 and, in the absence of contrary evidence, it seems likely that the Shaw family, descendants of the previous abbots, successfully fended off the claims of these competitors.²²⁴

The perpetual vicarage of Minigaff was the subject of a not dissimilar sequence of events a few years earlier. The parsonage of the church was annexed to Tongland, which in turn had been annexed to the bishopric of Galloway in 1530.²²⁵ David Arnot was both bishop of Galloway from 1508 to 1526 and commendator of Tongland, retaining the latter office after he had resigned the episcopacy and retaining some of the fruits of the abbacy following its annexation to the bishopric. On 3 November 1534, James Strathauchin sought provision to the vicarage, supposedly following the death of David Arnot and a dispute between

²²² 15 January (Reg. Supp. 2476, f.85^v-86^v).

²²³ 3 Sept. 1544 (Reg. Supp. 2520, f.72^v-73; PRO 31/9-33/175); 15 Jan. 1545 (Reg. Supp. 2530, f.17^v-18); 22 Jan. 1545 (Reg. Supp. 2531, f.26-26^v).

²²⁴ Haws, Scottish Parish Clergy, 119.

²²⁵ Cowan, Parishes, 148; Cowan and Easson, Medieval Religious Houses: Scotland, 103.

himself and Andrew Arnot.²²⁶ Four years later, a more complicated picture emerged. In a petition of 24 May 1538, the vicarage was said to have been void by the death of David Vaus, following which Andrew Arnot was said to have obtained it by ordinary authority and James Strathauchin by apostolic provision. Although Strathauchin had received a judgment in the Rota in his favour, the two rivals had reached a settlement by which James would resign in favour of Andrew, while Andrew would provide two annual pensions of £10 Scots to Henry Pitcairn and Thomas Strathauchin, and James would retain the right of regress. It was this concord for which together they sought approval.²²⁷ The records clearly conflict with regard to the previous holder of the vicarage; whatever the facts on that point, it seems probable that Andrew Arnot was related in some way to the previous commendator.²²⁸ Andrew certainly retained the vicarage, although only for a short time, since he resigned it three years later.²²⁹

There is at least one instance where the efforts of an abbot to place his nominee in a benefice in his patronage ended in failure. The vicarage of Kinerny in the diocese of Aberdeen, a church appropriated to Arbroath, had been held since 1535 by James Lindsay.²³⁰ In August 1540, Lindsay resigned and asked, along with Alexander Kyd, succentor of Aberdeen, that Kyd be given papal provision, while he should be granted all the fruits and returns and the right of regress as an

²²⁶ Reg. Supp. 2181, f.200^v-201; Strathauchin obliges for annates, 10 June 1536 (PRO 31/9-33/41-2). For David Arnot, see also Wigtownshire Chrs., 6.

²²⁷ Reg. Supp. 2285, f.125-127.

²²⁸ David Vaus was vicar of Minigaff in 1518 (Wigtownshire Chrs., no.225). David Arnot did not die till c.1536/7, which casts doubt on the accuracy of the petition which stated that he was dead by November 1534 (Fasti, 132).

²²⁹ 21 May 1541 (RSS, ii, no.4024).

²³⁰ Cowan, Parishes, 111; 21 Jan. 1535 (PRO 31/9-32/302-303).

annual pension for life, and John Johnson, a priest in the diocese, should be awarded a pension of 10 merks Scots per annum on the fruits; these requests were granted.²³¹ Early the following year, however, Adam Mure, a servant of David Beaton, was presented to the vicarage by the Cardinal and received letters of collation from the bishop, William Gordon.²³² Gordon appears subsequently to have rescinded this collation and transferred his support to Kyd. In the middle of 1542, Mure petitioned for a commission to nullify a retraction he had made of his mandate to the vicarage which had allowed Kyd to seek papal provision.²³³ This effort to regain the benefice appears to have been unsuccessful, for, although Mure won his case in an action in 1542 before the lords of Council, he subsequently reached a settlement with Kyd in June 1544 by which Kyd was to receive the vicarage and Mure was to obtain an annual pension of £20 Scots together with the right of regress, and this received papal approval. Kyd continued to hold the vicarage at the Reformation.²³⁴ Mure may have become less concerned about this benefice following his appointment to a more substantial benefice, the subdeanery of Trinity collegiate church. The episode also illustrates the way in which the wishes of a patron could be thwarted through the exercising of the bishop's right to agree to or refuse collation.

The outcome of each of these disputes discussed above is clear. This is not always the case: there were at least two disputes over benefices in monastic patronage where the final result is uncertain.

²³¹ 11 Aug. 1540 (Reg. Supp. 2396, f.237^v-238^v); Provision (Reg. Vat. 1559, f.137-138^v). On 20 November, Kyd sought prorogation of his provision for 6 months (Reg. Supp. 2422, f.247-247^v).

²³² Sanderson, Cardinal of Scotland, 109.

²³³ 16 July 1542 (Reg. Supp. 2459, f.143^v-144).

²³⁴ 27 June (Reg. Supp. 2515, f.35-35^v); Provision (Reg. Lat. 1751, f.144-145); Haws, Scottish Parish Clergy, 136.

These cases, relating to the vicarages of Lunan and Murroes, are in fact linked. Both churches were in the patronage of Arbroath and there is evidence to indicate support from David Beaton for particular claimants. Beaton presented David Christison to the vicarage of Lunan on 29 June 1526 and Thomas Dalrymple to that of Murroes on 15 February 1532.²³⁵ Three years later, Dalrymple resigned the second of these benefices to the pope, and David Christison successfully sought provision, whilst reserving a pension of 20 merks Scots on the fruits for Dalrymple.²³⁶ Support for Christison may be implied, not only from his original presentation, but also from the fact that he was active in Beaton's service during the 1530s and early 1540s.²³⁷ Early the following year, however, Thomas Cannart, a clerk of St. Andrews diocese, claimed that Christison was unlawfully occupying the two vicarages and asked for papal provision, following this up in April 1536 with a second claim that he had obtained the vicarage of Lunan by apostolic authority and that it was now necessary to seek prorogation for 6 months so that he could oust an intruder.²³⁸ In the absence of clear evidence one way or the other, the final outcome of this cannot be determined, though it is perhaps more likely that Christison successfully retained both vicarages.

There were a number of parish churches appropriated to religious houses where it was the practice to appoint members of the house to serve the cure. For obvious reasons, this was much more common with

²³⁵ Presentation of Christison (Arb. Lib., II, 455); presentation of Dalrymple (Arb. Lib., II, 512).

²³⁶ 12 Oct. 1535 (Reg. Supp. 2187, f.72-72^v); provision (Reg. Lat. 1690, f.35^v-37).

²³⁷ Sanderson, Cardinal of Scotland, 27,40.

²³⁸ 5 Jan. 1536 (Reg. Supp. 2210, f.54^v-55); 19 April (Reg. Supp. 2224, f.289^v).

houses of regular canons.²³⁹ These benefices, along with a few cases where monks from a monastic house were appointed, form a distinct category of their own, if only because the link between the claimants and the religious house is usually very clear. In two instances, canons of the house which held the patronage secured possession of the churches concerned without encountering any counter-claims. This was twice the case with the pensionary vicarage of Whithorn during the 1540s. Late in 1541, Andrew Stevenson resigned the vicarage in favour of Robert Stevenson, a canon of the priory of Whithorn to which the church was appropriated. Together they petitioned for provision to the vicarage to be made to Robert while Andrew was to retain all the fruits and returns for life together with the right of regress.²⁴⁰ Eight years later, Andrew Stevenson died in April, a reserved month. It is not clear what had happened to Robert Stevenson in the meantime, but on this occasion, it was John Johnston, described as a claustral canon, who sought provision. Although not identified as such in the petition, he can be confidently identified as a canon at Whithorn by his appearance as such witnessing charters a few years earlier.²⁴¹ Johnson retained possession of the vicarage until well past 1560.²⁴²

A second instance of an unopposed appointment of this kind seems to have occurred with the perpetual vicarage of Tranent, the parsonage of which was appropriated to the abbey of Holyrood.²⁴³ At the end of

²³⁹ I.B.Cowan, 'The religious and the cure of souls in medieval Scotland,' RSCHS, xiv (1960-2), 215-30.

²⁴⁰ 20 Dec. 1541 (Reg. Supp. 2407, f.261); Robert Stevenson also appears as a canon witnessing charters during the 1530s (Wigtownshire Chrs., nos.20,23,25); Andrew is identified as subprior in 1536 and 1537 (ibid., nos.23,25).

²⁴¹ 2 Oct. 1549 (Reg. Supp. 2677, f.16-16^v); Wigtownshire Chrs., nos.23,25,31,35,265.

²⁴² Haws, Scottish Parish Clergy, 247.

²⁴³ Cowan, Parishes, 200.

December 1536, William Forman, named as an Augustinian canon, sought provision to the vicarage, stating that it was vacant *certo modo* or by the death of James Lain in a reserved month.²⁴⁴ There is no specific confirmation of the success of this petition: nor, however, is there any evidence suggesting counter-claims. It is likely that Forman was succeeded by another canon of Holyrood, in the form of Stephen Moffet, who is similarly described as an Augustinian canon in the documents in which he resigned in favour of John Rea eight years later.²⁴⁵

The service of churches by members of the community of the house to which they were appropriated was not entirely limited to houses of regular canons. It was not unknown for monks to do so as well: although this was forbidden by the Council of Poitiers in 1100, there is evidence that as the monastic disciplines were less strictly enforced, such rules were ignored at least on occasions.²⁴⁶ During the period under consideration, there are two examples of unopposed appointments of this kind. When Christopher Boyd resigned the perpetual vicarage of Monkton in 1537 in the hands of the pope, it was in order that John Sandelands, a monk of Paisley, to which the parsonage of the church was appropriated, should be given provision, although Boyd was to retain all the fruits, the teinds and the glebe for life along with the right of regress.²⁴⁷ Sandelands held it till his death in 1541. Boyd may himself have died before then: if not, his right of regress did not secure his return to the vicarage, because it was James

²⁴⁴ 15 Dec. 1536 (Reg. Supp. 2233, f.141^V-142).

²⁴⁵ 14 May 1544 (Reg. Supp. 2519, f.209-210); Provision (Reg. Lat. 1752, f.123-124).

²⁴⁶ Cowan, 'The religious and the cure of souls,' 228-9.

²⁴⁷ 27 Aug. (Reg. Supp. 2259, f.279-279^V); Grant of pension (Reg. Lat. 1674, f.182^V-184^V).

Forester, vicar of Carmunnock and certainly not a monk, who succeeded him.²⁴⁸

The second example of this kind of appointment is seen with the perpetual vicarage of Inverkeilor, a church whose parsonage was appropriated to Arbroath.²⁴⁹ In May 1548, during the vacancy in the see, Thomas Rutherford, the subprior of the abbey, was given crown presentation to the benefice when it became void by the resignation of James Ogilvy, the previous vicar.²⁵⁰ It seems not unlikely that this reflected the wishes of the abbey and certainly there was no opposition recorded. How long Rutherford held the church is not known: he was not however in possession at the Reformation when Alexander Forrest was the vicar.²⁵¹

As with other churches in the patronage of religious houses, those normally served by members of the community were not in any way immune from challenges. On several occasions, these were defeated. The perpetual vicarage of Urr, for example, a church normally served by canons from Holyrood,²⁵² illustrates the most basic form of opposition; namely that of the bishop of Glasgow who was responsible for the institution of the holder and had the right to refuse to do so. Late in 1544, the perpetual vicarage was vacant by the death in November of the previous holder, named only as N. Alexander Smebord, a canon of Holyrood, sought provision. It was noted in the petition that, when he had been presented by the abbey, the ordinary had

²⁴⁸ 17 July 1541 (Reg. Supp. 2425, f.251-251^v).

²⁴⁹ Cowan, Parishes, 88-9.

²⁵⁰ 24 May 1548 (RSS, iii, no.2789).

²⁵¹ Haws, Scottish Parish Clergy, 113.

²⁵² Cowan, Parishes, 205-6.

refused to institute him.²⁵³ Notwithstanding the episcopal opposition, Smebord successfully retained the vicarage until at least 1558.²⁵⁴

Another church in the south-west of the country which was appropriated to Holyrood and its vicarage served by its canons was Kirkcudbright.²⁵⁵ It was the subject of a more extended dispute between two claimants in 1548 and 1549. After the death of Bernard Baillie in September 1547, which was not a reserved month, William Brown asked for a new provision in January of the following year, saying that he had already obtained it by ordinary or other authority, but doubted the validity of the provision.²⁵⁶ A year later, however, it was clear that the picture was more complex: William Brown and George Crichton had been in dispute at the court of the archbishop of Glasgow, following Brown's institution after he had been given presentation by the Queen, and Crichton sought a commission against his competitor early in 1549.²⁵⁷ The dispute continued throughout the year. On 4 May, Crichton, described as a canon, asked for a new provision, stating that he had obtained it by ordinary authority following presentation by the abbot and convent.²⁵⁸ Three months later, William Brown petitioned for provision *si neutri*, claiming that the case *in partibus* was still in process and that it was stated by some that neither he nor Crichton had right in the benefice.²⁵⁹ On 28 September, Crichton renewed his

²⁵³ 25 Dec. (Reg. Supp. 2547, f.108^v-109).

²⁵⁴ Holyrood Liber, 298, where he is described as vicar of Urr and 'yconomus' of Holyrood; Haws, Scottish Parish Clergy, 243.

²⁵⁵ Cowan, Parishes, 119.

²⁵⁶ 24 Jan. 1548 (Reg. Supp. 2625, f.103^v-104).

²⁵⁷ 22 Feb. 1549 (Reg. Supp. 2655, f.12).

²⁵⁸ Reg. Supp. 2661, f.5; Reg. Supp. 2673, f.221-221^v.

²⁵⁹ 13 Aug. (Reg. Supp. 2671, f.95^v). William is wrongly described as Andrew in the introduction to the petition.

claim, confirming much of the information provided earlier about the routes by which the two claimants had obtained the benefice, but adding that Brown had been presented by James, earl of Arran, that his appeal had been upheld by papal judges-delegate, and seeking a commission to right the situation whereby Brown was continuing to challenge him.²⁶⁰ Later records may cast more detailed light on the course of the dispute. What is certain, however, is the final outcome: Crichton was in possession at the Reformation and continued as vicar until around 1571.²⁶¹

The abbey of Holyrood experienced similar difficulties in securing the successful institution of one of its canons to a third of its churches which it normally served by this means, the perpetual vicarage of Kinghorn-Easter.²⁶² On 10 September 1542, John Donaldson was said to have resigned in favour of John Somerville, a clerk of St. Andrews diocese who petitioned to be allowed to hold it *in commendam*. Three weeks later, he petitioned again, on this occasion stating that Donaldson had died in August, a reserved month.²⁶³ Early the following month, however, John Wilson, described as a canon of Holyrood, petitioned for a new provision *in commendam*. Donaldson's death in August was repeated as the cause of the vacancy, and Wilson stated that he had been appointed by the authority of Cardinal Beaton, acting under the privileges given to him by the apostolic indult of February 1539. Though the presentation was reserved to Beaton by the Indult because Donaldson's death had taken place in a reserved month, it seems most

²⁶⁰ Reg. Supp. 2672, f.253-253^v; Commission dated 15 Oct. 1549 (Brev. Lat. 44, f.538^v).

²⁶¹ Haws, Scottish Parish Clergy, 146.

²⁶² Cowan, Parishes, 112.

²⁶³ Reg. Supp. 2465, f.216-217; 27 Sept. 1542 (Reg. Supp. 2469, f.216^v-217). The supplications did state that the vicarage was normally held by canons, but Somerville is not identified as such.

likely that he was responding to the wishes of the patron in making this appointment.²⁶⁴ They were not, however, the only claimants to the vicarage. In the middle of the following year, John Thornton, one of the most active of the Scottish procurators at Rome, asked for papal provision, saying that Somerville had died.²⁶⁵ On Christmas Day 1544, James Abercrombie, claiming that the benefice was vacant because of the death of N, also asked for presentation, describing himself as an Augustinian canon and noting that presentation lay with the abbot and convent of Holyrood.²⁶⁶ Somerville may indeed have died but, whether this is the case or not, none of the claimants were able to dislodge Wilson from his possession. In June 1545, having stated that the vicarage was void by the death either of John Wauch, a canon of Holyrood or John Donaldson, Wilson petitioned for papal provision; this was clearly successful, because he was in possession of the benefice at the Reformation.²⁶⁷

A fourth parish church appropriated to Holyrood, the perpetual vicarage of Bolton, was also the subject of a dispute of this kind.²⁶⁸ The circumstances were slightly different in that the link between the abbey and the successful claimant was at one remove. In October 1547, Robert Crichton resigned the benefice in the hands of the pope, and Andrew Simson, who was admitted to be the son of an Augustinian canon and an unmarried woman, asked for provision to the vicarage.²⁶⁹ In

²⁶⁴ 5 Oct. (Reg. Supp. 2468, f.262^v-263); for the Indult, see Sanderson, Cardinal of Scotland, 108.

²⁶⁵ 24 June 1543 (Reg. Supp. 2480, f.39^v).

²⁶⁶ 25 Dec. 1544 (Reg. Supp. 2547, f.108^v).

²⁶⁷ 24 June 1545 (Reg. Supp. 2544, f.107^v-108); Haws, Scottish Parish Clergy, 137); Wilson was appointed to the vicarage of Kinneil, another Holyrood church by the same process (Sanderson, Cardinal of Scotland, 109).

²⁶⁸ Cowan, Parishes, 19.

²⁶⁹ 25 Oct. (Reg. Supp. 2619, f.94).

August of the following year, however, Robert Graham was given royal presentation to the vicarage following Crichton's resignation, the see of St. Andrews being vacant.²⁷⁰ This challenge was unsuccessful: Simon held the vicarage in 1554 and at the Reformation.²⁷¹ Although the supplication of October 1547 is not specific on this point, it seems highly likely that Simson was the son of a Holyrood canon, and thus fits, if indirectly, into the pattern illustrated by the other three Holyrood churches.

The long-standing nature of these arrangements for churches to be served by canons of the houses to which they belonged may have helped to ensure that the wishes of the abbots and convents were usually accepted. There is at least one instance where the final result of a challenge to the appointment of a canon is not clear, and two examples of benefices where the presentations made by the religious houses concerned were successfully overturned. The records of the first of these, the vicarage of Smailholm in the diocese of St. Andrews, do not provide conclusive evidence of the outcome of the dispute between the rival claimants. This benefice, in a church which was appropriated to the Premonstratensian abbey of Dryburgh, fell vacant on the death of William Dickson in November 1532. In February 1535, John Gibson asked for papal provision *in commendam* because of his age, saying that it was normally held by canons of the abbey and that it was being unlawfully held by Thomas Barr.²⁷² This 'intruder' was subsequently revealed to be a canon of Dryburgh in a petition made on 23 April 1535, when Gibson stated that he had already obtained the benefice but now required prorogation of that provision for a year

²⁷⁰ 27 Aug. 1548 (RSS, iii, no.2925).

²⁷¹ Haws, Scottish Parish Clergy, 27).

²⁷² Cowan, Parishes, 184; 25 Feb. (Reg. Supp. 2162, f.19^v).

beyond the statutory three years in order to oust Barr and possibly others who were detaining the vicarage unlawfully.²⁷³ Four years later, John Gibson petitioned again, when he stated that Barr was still in possession, that he would not be able to force his challenger out within the due period and that some were refusing to accept his provision. He therefore asked for a new provision with any other appointments being declared void.²⁷⁴ In the absence of evidence on the further progress of the dispute, its outcome must be uncertain. Gibson may have made good his claim by his persistence; it is equally possible that his failure to dislodge Barr, a canon of the abbey, during at least four, and probably more, years indicates that he was unlikely to succeed thereafter, and that his challenge simply faded. The absence of further petitions in support of his claim may suggest that the latter is the likelier of the two interpretations.

If the result of the dispute over the vicarage of Smailholm is unknown, the same cannot be said of two other cases, where the convents unsuccessfully defended their established custom of appointing one of their number to serve churches in their patronage. The first dispute was over the vicarage of Lanark, the parsonage of which was also annexed to Dryburgh.²⁷⁵ This was obtained by Kentigern Livingstone in 1535 and successfully retained until he was succeeded by his nephew, Andrew, in 1547. Livingstone first sought and obtained the vicarage when it became vacant following the death in May 1535 of John Clerk, a Premonstratensian canon, and presumably a member of the Dryburgh community on 30 June 1535.²⁷⁶ This did not go unchallenged:

²⁷³ Reg. Supp. 2170, f.110^v.

²⁷⁴ 15 Sept. 1539 (Reg. Supp. 2345, f.115^v-116^v).

²⁷⁵ Cowan, Parishes, 127.

²⁷⁶ Reg. Supp. 2178, f.151-151^v; Reg. Supp. 2182, f.75v; Provision (Reg. Lat. 1695, f.74-75).

by March 1540, there was a case in progress between Livingstone and Robert Anderson, a claustral canon of Dryburgh, who had apparently been provided by ordinary authority to the vicarage. Anderson explained that it was being claimed that neither had right in the benefice, and asked for papal provision.²⁷⁷ Despite his position as a member of the chapter and a second petition at the end of the year,²⁷⁸ Anderson's attempt to dislodge Livingstone did not succeed. John Stevenson, one of the Scottish procurators at Rome, had rather more success in May 1545 when he managed to force Livingstone to pay an annual pension of £10 Scots from the fruits and grant the right of regress, in return for ceding the right which he claimed to the benefice; Livingstone was provided to the vicarage for a second time as a result.²⁷⁹ Kentigern Livingstone then held the benefice until his death in 1547 when his nephew, Andrew, was given royal presentation to it while the see was vacant.²⁸⁰ Stevenson was not so easily disregarded. In January 1548, he claimed that he had obtained the vicarage by apostolic authority following resignation by, or the death of Kentigern, and asked for a new provision.²⁸¹ This claim proved unsuccessful, and Andrew Livingstone retained his hold on the benefice until the Reformation when he received a pension.²⁸²

A second example of a successful challenge to the normal custom of appointing canons of the appropriating house is provided by the

²⁷⁷ 28 Mar. (Reg. Supp. 2396, f.32-33); Provision (Reg. Vat. 1571, f.226-227^v).

²⁷⁸ 5 Dec. (Reg. Supp. 2432, f.39^v-40).

²⁷⁹ 20 May 1545 (Reg. Supp. 2554, f.67^v); Provision (Reg. Lat. 1767, f.215-216); Pension and right of regress to Stevenson (Reg. Lat. 1767, f.216^v-218).

²⁸⁰ 20 Sept. (RSS, iii, no.2443).

²⁸¹ 24 Jan. (Reg. Supp. 2646, f.78-78^v).

²⁸² Haws, Scottish Parish Clergy, 154.

dispute over the perpetual vicarage of Eckford. The death of William Robson in May 1535 triggered a series of claims to the benefice. The first of these was from Robert Cottis, who described himself in his petition of 11 November as the son of an Augustinian canon and stated that the vicarage was normally held by canons of Jedburgh, to which the church was appropriated.²⁸³ On the same day, John Gibson also petitioned for provision without claiming any link with the order; Gibson's description as a clerk of Glasgow diocese may suggest an identification with the claimant to the vicarage of Smailholm.²⁸⁴ Almost a year later, in October 1536, Andrew Scherond sought prorogation of the apostolic provision which he claimed he had already received.²⁸⁵ This was supported by James V in one of his rare interventions in disputes over parish benefices in October 1539: in a letter to Cardinal Ghinucci, he wrote that Scherond had been terrified by his adversaries into yielding, and asked the cardinal in what might sound like menacing terms 'to explain the king's attitude to the auditor concerned.'²⁸⁶ The first evidence of normal practice being followed came the following month when John Tenant, who was a canon of Jedburgh, was said to be in possession; however he was mentioned in a petition purely as a holder who was resigning, providing an opportunity for Robert Richardson, described simply as a priest of Glasgow diocese, to seek and indeed obtain provision. Tenant and Scherond were clearly in contention for, on the same day, Andrew sought provision *si neutri* mentioning also the possibility of other claimants.²⁸⁷ Tenant, who was

²⁸³ Cowan, Parishes, 58; Reg. Supp. 2194, f.174^V-175.

²⁸⁴ Reg. Supp. 2194, f.174-174^V.

²⁸⁵ 13 Oct. (Reg. Supp. 2228, f.195^V-196).

²⁸⁶ 13 Oct. (James V Letters, 379).

²⁸⁷ 10 Nov. (Reg. Supp. 2355, f.36^V-37); Provision (Reg. Vat. 1553, f.284-286); Petition by Scherond (Reg. Supp. 2359, f.172^V-173^V).

presumably the choice of the convent, does not appear again. Early in 1544, Scherond yielded his right in the vicarage in favour of Robert Richardson, who asked to be surrogated in all right which Scherond had, while at the same time seeking a pension of 20 merks Scots on the fruits for Andrew. It appears that Scherond was persistent enough in pursuing his claim to make it necessary to buy him off.²⁸⁸ Richardson, none of whose petitions links him with the Augustinian order, held the benefice at least until 1557, when he witnessed a charter relating to lands in the sheriffdom.²⁸⁹

Both lay and episcopal patrons were clearly subject to challenges which led to disputes being carried to the curia on many occasions. The openings provided by the rules of reservation also seem to have encouraged clerics within Scotland to seek other parish churches where links between any of the claimants with the patrons cannot be identified.

The dispute over the perpetual vicarage of Minigaff, whose parsonage was annexed to Tongland, provides one example of this pattern of activity.²⁹⁰ Thomas Traill had held the benefice since 1526 and obtained papal confirmation of this from Paul III in November 1534.²⁹¹ It is possible that this petition reflects some uncertainty about the security of his provision. At any rate, three years later, he was engaged in litigation with Thomas Foulis, who sought prorogation *si neutri* on 3 January 1536.²⁹² The litigation continued until the middle

²⁸⁸ 19 Feb. 1544 (Reg. Supp. 2507, f.189^v-190).

²⁸⁹ 8 March 1557 (RMS, iv, no.1156).

²⁹⁰ Cowan, Parishes, 200.

²⁹¹ 3 Nov. (Reg. Vat. 1477, f.139-140^v).

²⁹² Reg. Supp. 2196, f.298^v.

of the following year. Neither litigant claimed to have presentation from the patron, although Foulis stated, in November 1536, that he had held the vicarage by ordinary authority.²⁹³ Eventually a petition from Foulis on 2 May 1537, asking to be made surrogate in all Traill's rights and to obtain provision appears to have been successful.²⁹⁴ He retained the benefice until his death in 1541, when John Carnis was given royal presentation during a vacancy in the see.²⁹⁵

A dispute over the perpetual vicarage of Dunlop, a church which was appropriated to Kilwinning, provides a second example of litigation of this kind.²⁹⁶ In August 1541, John Elphinstone, a clerk of Dunkeld diocese, asked for papal provision following the death of George Atkinson, the previous holder in July of that year.²⁹⁷ Other claimants, however, also emerged. On 4 October 1541, John Thornton junior sought provision, although he was not to re-appear.²⁹⁸ It was William Hunter who next petitioned for the vicarage on 7 July 1543, when he stated that both he and Elphinstone had obtained it by apostolic authority and had been litigating at the curia. He petitioned for provision because Elphinstone was now resigning the benefice and, at the same time asked that a pension of £35 Scots on the fruits of the vicarage previously given to John Major should be transferred to

²⁹³ 5 Nov. (Reg. Supp. 2235, f.294-294^v).

²⁹⁴ Reg. Supp. 2245, f.125-125^v.

²⁹⁵ 26 Sept. (RSS, ii, no.4219).

²⁹⁶ Cowan, Parishes, 53.

²⁹⁷ 31 Aug. (Reg. Supp. 2434, f.195).

²⁹⁸ Reg. Supp. 2435, f.24^v-25.

Elphinstone for life.²⁹⁹ This was successful for Hunter held the vicarage until his death before 3 January 1548.³⁰⁰

The perpetual vicarage of Dalmeny in the diocese of St. Andrews, one of the churches belonging to Jedburgh produced several claimants at Rome resulting in extensive litigation over a long period.³⁰¹ This dispute first appears in the records of Paul III's pontificate on 1 April 1535, when Andrew Scherond sought papal provision, saying it was vacant either *certo modo* or by the resignation of John Cantuly, and that it was being detained by Alexander Harvy.³⁰² Given the date and content of this supplication, it is not at all unlikely that the dispute had been in progress for some time. At the end of 1535, however, Harvy was said to have resigned when Thomas Huchesoun successfully asked to be provided.³⁰³ The vicarage continued to be in dispute and, in 1538, all four claimants re-appeared in a pair of supplications. On 18 January, Huchesoun asked that he be given provision to the vicarage which was vacant by the resignation of Harvy.³⁰⁴ On 13 October, however, Andrew Scherond sought provision, stating that he already had ordinary authority for the benefice and that Cantuly had resigned it in the hands of the pope.³⁰⁵ Both Huchesoun and Scherond made further attempts to secure possession over the following three years, Huchesoun seeking to be made surrogate in John Cantuly's right in 1539 when

²⁹⁹ Petition for provision (Reg. Supp. 2492, f.37-37^v); Petition for pension (Reg. Supp. 2495, f.27-27^v).

³⁰⁰ RSS, iii, no.2784.

³⁰¹ Cowan, Parishes, 44.

³⁰² Reg. Supp. 2169, f.29.

³⁰³ 18 Dec. (Reg. Supp. 2196, f.16-16^v); Provision (Reg. Lat. 1662, f.302-303^v).

³⁰⁴ Reg. Supp. 2279, f.238.

³⁰⁵ Reg. Supp. 2306, 236^v-237; 17 Oct. (PRO 31/9-33/91-2).

Cantuly died, and Scherond seeking prorogation of his provision for a further year in 1540 in order to oust a new claimant, John Arthur.³⁰⁶

The case disappears from these records for a few years, but burst back to life in the summer of 1543, when yet another challenger came forward. James Davidson, a clerk of St. Andrews, stated that he already had ordinary provision and asked for a new provision, claiming that Thomas Huchesoun had ceded the vicarage in the hands of the pope.³⁰⁷

Huchesoun was clearly of a different mind for, in September 1544, he revoked the appointment of procurators to resign in favour of Arthur.³⁰⁸

It was a further three years before the dispute again resurfaced with two further petitions in August 1547. One of these provides some background detail on the case, when John Arthur asked for provision from the pope by surrogation in Huchesoun's right following his death. According to Arthur's account, the litigation between John Cantuly, Alexander Harvy and Thomas Huchesoun had been in progress for eleven years. When Cantuly died, James Davidson had received the vicarage by ordinary authority, but had then lost it following an appeal to the apostolic see by Thomas Huchesoun. James, however, had ceded his right in the benefice in favour of John Arthur in the hands of Cardinal Beaton, leading to a case between Huchesoun and Arthur. Huchesoun having died, Arthur now asked for provision by surrogation in his right.³⁰⁹ However, it is unlikely that John Arthur successfully retained the vicarage, for there were two royal presentations to the benefice on 2 and 3 January 1548, possibly

³⁰⁶ Huchesoun on 26 Feb. 1539 (Reg. Supp. 2343, f.199-199^V); Scherond on 24 Dec. 1540 (Reg. Supp. 2402, f.106^V-107).

³⁰⁷ 24 June (Reg. Supp. f.70-70^V).

³⁰⁸ 15 Sept. (PRO 31/9-33/173).

³⁰⁹ 17 Aug. 1547 (Reg. Supp. 2617, f.205^V); there was also a petition on the same day by William Hunter following Huchesoun's death (Reg. Supp. 2618, f.87).

reflecting conflict within the Scottish government: the first was for John Sinclair, provost of Roslin, and the second for Alexander Forhous, and both gave Huchesoun's death as the cause of the vacancy.³¹⁰ The final outcome is uncertain, because no evidence for secure possession after this date has been traced. Arthur's account in 1547 may provide a possible explanation of the gap in the record of supplications. This suggests that the litigation may have continued in Scotland as a result of Davidscn's cession of his right in the hands of Beaton, a possibility made still more likely by the availability of legatine powers to the Cardinal. No independent corroboration of this beyond the statement in the 1547 petition has been seen.

The litigation over the perpetual vicarage of Echt in the diocese of Aberdeen was similarly lengthy. In late 1535, following William Marshall's death in August of that year, John Stenhouse sought and obtained papal provision, although ominously it was stated that Henry Sinclair was detaining it.³¹¹ That this was indeed the case was indicated by a petition from Sinclair himself early in November.³¹² Another claimant, Thomas Craig, appeared briefly at the same time, but his challenge was short-lived.³¹³ It is clear that the real dispute lay between Henry Sinclair and John Stenhouse, and this is reflected in a petition from Sinclair stating that it had previously been granted to him and seeking provision *si neutri*.³¹⁴ As with the vicarage of Dalmeny,

³¹⁰ RSS, iii, no.2581; RSS, iii, no.2583.

³¹¹ 19 Oct. (Reg. Supp. 2191, f.51-51^v); Provision (Reg. Vat. 1520, f.43-44).

³¹² 9 Nov. (Reg. Supp. 2194, f.184-184^v).

³¹³ 2 Nov.(Reg. Supp. 2190, f.67). He re-appeared briefly on 10 February 1536, when John Burnet, a clerk of Aberdeen dioces and familiar of John Cordellas, an apostolic scriptor sought provision after the resignation of Thomas Craig (Reg. Supp. 2199, f.266).

³¹⁴ 20 Nov.(Reg. Supp. 2229, f.106^v).

this litigation then disappeared from the record of supplications. It was not until 1546 that John Stenhouse re-appeared, first seeking a new provision for himself on 2 June,³¹⁵ and then, a year later, resigning in favour of Adam Kingorne.³¹⁶ In September 1548, Kingorne himself resigned back in favour of John Stenhouse, while retaining an annual pension of £10 Scots on the fruits of the vicarage.³¹⁷ The records do not provide any firm indication of the conclusion of the dispute, but it seems likely that Stenhouse retained it as a result of the retrocession in 1547-48.

The dispute over the perpetual vicarage of Rutherglen was much shorter-lived, and indeed may illustrate a slightly different pattern of activity. When David Smith died in October 1534, James Forester, a clerk of St. Andrews diocese, was said to have been provided by ordinary authority, but sought a new provision because of concern, perhaps justified since this was one of the reserved months, that the validity of his right might be faulted.³¹⁸ He was not however alone: Alexander Hamilton and John Gibson, both from Glasgow diocese, also asked for papal provision on the same day, and David Gibson did likewise on the following day.³¹⁹ It seems that Forester, who presumably had the dual advantage of both episcopal and papal authority for his possession, was able to fend off these challenges, for the other claimants made no

³¹⁵ Reg. Supp. 2573, f.65.

³¹⁶ 8 Aug.1547 (Reg. Supp. 2610, f.251-251^V); PRO31/9-33/214). In both the petitions, Stenhouse described his adversary at the curia as John Sinclair and claimed that he (Stenhouse) had obtained a definitive judgement in his favour. It seems likely that this was an error, since the final supplication dealing with the dispute referred again to Henry Sinclair.

³¹⁷ 14 Sept.(Reg. Supp. 2639, f.260-260^V)

³¹⁸ 29 Dec.1534 (Reg. Supp. 2156, f.215^V)

³¹⁹ Hamilton (Reg. Supp. 2162, f.4); Gibson (Reg. Supp .f.147-147^V); Guthrie (Reg. Supp. 2159, f.55^V)

further appearance. In the summer of 1536, Forester himself resigned to the pope, and John Thomson who was in his 15th year, petitioned for provision initially *in commendam* until his 18th year and then *in titulum*.³²⁰ No evidence has been traced to indicate whether Thomson did successfully retain the vicarage, but the absence of further records in this series of documents may indicate that this was the case. What is indicated by this example is that the death of the holder of one of these benefices in a reserved month could produce an initial flurry of interest from several interested candidates, some of whom may have been acting in a highly speculative manner. Most of these were likely to disappear fairly rapidly leaving the strongest claimant, in this case Forester, in possession.

This chapter has concentrated so far on the influence of local patrons as illustrated by these Vatican records. While some appointments were made in a straightforward manner, in other cases disputes ensued between various claimants and were carried to Rome as a result of the rules of reservation. Many of these, such as those just discussed, appear to have been, by and large, between clerics based in Scotland. As with the cathedral prebends, however, an important influence on appointments and frequently a major source of litigation regarding the parish churches were the activities of the Scottish procurators at the curia. News of a vacancy, and even rumours of one, were enough to bring this group of clerics into action. Well-known names appear again and again experiencing various levels of success in seeking these benefices. Some

³²⁰ 7 July (Reg. Supp. 2218, f.141-142)

of the cases already examined have illustrated this activity, but its scale was considerably more extensive than has been indicated so far.

These Scottish procurators did manage to successfully obtain several parish churches and to hold off challenges to their possession. The Thornton family, for example, maintained possession of the perpetual vicarage of Aberchirder in the diocese of Moray, with which they had connections at other levels. John Thornton senior already had a pension of 40 merks Scots on the fruits of the benefice, which was held by John Innes, and he transferred this to his eight-year old son, Henry, on 9 October 1546.³²¹ Innes died not long afterwards and was succeeded by Robert Hamilton, son of Archibald Hamilton of Lethane, who was given royal presentation in June of the following year, when it was stated that the vicarage was in royal patronage because the monastery of Arbroath, to which the church was appropriated, was vacant.³²² This was indeed the case, although the see of Moray was not vacant at the time. Thornton was not so easily thwarted, however, and later that month, he petitioned for a new provision to the vicarage, claiming that he had already obtained it by apostolic authority but had yielded it to John Innes after a dispute while retaining the right of regress.³²³ The Thornton family seems to have retained possession of the benefice, because John Thornton the younger held it at the Reformation.³²⁴

The Thorntons had similar success with the perpetual vicarage of Cramond in the diocese of Dunkeld, although it took several years of litigation before the benefice was finally secured. The vicarage had been

³²¹ Reg. Supp. 2586, f.141^v-142; PRO 31/9-33/189-201.

³²² 2 June 1547 (RSS,iii, no.2301).

³²³ 25 June (Reg. Supp. 2608, f.130^v)

³²⁴ Haws, Scottish Parish Clergy, 2. A John Thornton junior, nephew of the elder Thornton, was dead before May 1549. This must have been a different member of the family. A John Innes was pensionary vicar at the Reformation.

in dispute between John Thornton senior and John Fethy, who had previously obtained it by ordinary authority after James, abbot of Newbattle, had resigned the benefice. Thornton had however yielded his right in the benefice to Clement VII, and this had been taken up by Thomas Strathauchin. Although Strathauchin was reputed to have obtained provision, he in turn yielded all his right in the benefice and John Thornton junior sought surrogation to Strathauchin's right and provision at the beginning of Paul III's reign.³²⁵ This did not last long however because, early the following year, Thornton junior and Strathauchin were both said to have yielded all right in the vicarage, and John Fethy again sought and obtained papal provision, while reserving an annual pension on the fruits of 29 merks Scots together with the right of regress for Thornton.³²⁶ Fethy retained it for nine years until he was promoted to the precentorship of the Chapel Royal at Stirling, a move which resuscitated the dispute via the right of regress. A petition was jointly made by Fethy and Thornton junior in February 1544 that Thornton should be given provision, while an annual pension of £20 Scots was reserved to Fethy for life: the petition suggested that the vicarage had been in dispute between Fethy and Thornton and that this was an agreement between them to end the dispute.³²⁷ Thornton was certainly still vicar a year later and again in April 1547, when he sought a new provision on the rather unlikely grounds of the death of John Thornton senior.³²⁸ John Fethy extinguished the pension owed to

³²⁵ 3 Nov.1534 (Reg. Supp. 2156, f.210-210^V)

³²⁶ 9 January (Reg. Supp. 2162, f1^V-2); Provision (Reg. Vat. 1481, f.289-290); Reservation of pension and regress (Reg. Lat. 1623, f.14^V-17^V).

³²⁷ 19 Feb.1544 (Reg. Supp. 2505, f.108-108^V); Fethy had presumably inherited the interest in the benefice from his father who had been vicar in 1530 (RSS, ii, no.584).

³²⁸ 3 April (Reg. Supp. 2618, f.110^V); John Thornton senior lived until at least 1557 and probably until after the Reformation (Inchcolm Chrs, 200).

him in August of that year and presumably Thornton junior retained it successfully until his own death.

The perpetual vicarage of Collessie in St. Andrews diocese came into the hands of the Thornton family after it was resigned by Thomas Lathresk in 1536. John Thornton junior sought a new provision from the pope in June of that year, stating that he had already obtained it by ordinary authority.³²⁹ He repeated the request in November, seeking provision notwithstanding his defect of age, and seeking also a pension of £21 Scots as a life-pension for Lathresk.³³⁰ He does not appear to have felt particularly secure for, although he appears as vicar in 1540, he again sought a new provision to the vicarage on 14 January 1543.³³¹ Whether the succession of petitions reflect a challenge of some kind, he actually retained possession until his death sometime before 3 April 1547.³³²

John Stevenson, another of the procurators at Rome, was also successful on several occasions in obtaining parish benefices for himself. On one occasion, the dispute over the perpetual vicarage of Mochrum, he was not in fact the only procurator in contention for a cure which was normally held by one of the canons of the priory of Whithorn, to which the parsonage belonged.³³³ This litigation had been in progress since 1534, when James Salmond sought provision, saying that it was claimed that neither he nor Alexander Knollis, with whom he was in dispute, had any right in the vicarage.³³⁴ Stevenson made his own bid in January

³²⁹ 19 June (Reg. Supp. 2225, f.242-242^v)

³³⁰ 6 Nov. (Reg. Supp. 2231, f.131-131^v).

³³¹ 16 Aug. 1540 (Reg. Supp. 2385, f.2500; 14 Jan. 1543 (Reg. Supp. 2492, f.23^v-240.

³³² Reg. Supp. 2609, f.206.

³³³ Cowan, Parishes, 148

³³⁴ 3 Nov. (Reg. Supp. 2162, f.8^v).

1535 when he stated that it was vacant by resignation of Alexander Knollis an "asserted canon".³³⁵ James Salmond however maintained his challenge, seeking a new provision at the end of 1535, when he said that he had already obtained provision *in commendam* from Clement VII.³³⁶ He appears to have retained his hold on the benefice until 1539, when he ceded his right in it saying that his provision had not been finished. Along with David Arnot, he asked that the pope would provide David to the vicarage, while James would retain all the fruits for life, saving an annual pension of £20 Scots for David, with the right of regress should Arnot fail to pay the pension to Salmond; the petition also indicated that Alexander Knollis was an intruder in the benefice.³³⁷ A new slant on the litigation was given early in 1540. On 27 February, James V wrote in a letter to Cardinal Ghinucci that John Stevenson had been assigned a pension of £80 Scots by Ninian, prior of Whithorn. The present prior, Malcolm wished this definitely located and therefore had agreed that the present holder, "a religious", should resign the vicarage in favour of John, and the king asked Ghinucci to ensure that the change was affected at Rome.³³⁸ It seems likely that "the religious" was Alexander Knollis, who was probably a canon of Whithorn. He himself resigned the vicarage in favour of Stevenson a year later, and John asked the pope for provision *in commendam*. The provision was complicated by a further financial arrangement: the petition said that Alexander was to retain all the fruits of the vicarage, while John was to get the half-fruits of the vicarage which had previously been united to the table of the prior of Whithorn; this

³³⁵ 1 Jan. 1535 (Reg. Supp. 2159, f.288^v-289).

³³⁶ 10 Dec. (Reg. Supp. 2197, f.66-66^v)

³³⁷ 19 May (Reg. Supp. 2336, f.26-26^v); 12 July (PRO31/9-33/95-96)

³³⁸ 27 Feb. (James V Letters, 395).

contradictory request was corrected in a subsequent petition when the fruits were divided in half.³³⁹ Even then, the dispute was not entirely finished, for John Stenhouse had to seek a new provision in 1545 when an unnamed adversary brought a case against him in the curia.³⁴⁰ This challenge was seen off, for he still held the vicarage in the early 1560s.³⁴¹

John Stevenson also seems to have successfully held off challenges from other claimants for the perpetual vicarage of Borgue, a church in the diocese of Galloway usually served by a canon from the priory of Whithorn.³⁴² On 27 March 1537, William Meldrum asked that he be given provision following the death of the previous incumbent, Robert Schaw, in January.³⁴³ He was not alone, for three others sought the benefice in quick succession: Thomas McCann and John Gibson on 6 April, and John Stevenson on 13 April.³⁴⁴ Once again, Stevenson was joined by another of the procurators when David Bonar also asked for provision, on the grounds that it was asserted that neither McCann nor Stevenson, who were involved in litigation over it, had a legitimate claim to the vicarage.³⁴⁵ This claim does not appear to have been pursued successfully for less than month later, on 6 April 1539, Stevenson was described as vicar in a letter from James V confirming the erection of a prebend in the collegiate church of Biggar financed by 26 merks Scots

³³⁹ 10 Feb.1541 (Reg. Supp. 2428, f.79^V-80); 4 May 1542 (Reg. Supp. 2452, f.136^V); Provision of Stevenson together with the grant of the pension, 30 May 1542 (Reg. Lat. 1735, f.67^V-69)

³⁴⁰ 13 Feb.(Reg. Supp. 2534, f.30^V-31)

³⁴¹ Haws, Scottish Parish Clergy, 180.

³⁴² Cowan, Parishes, 20.

³⁴³ Reg. Supp. 2250, f.77.

³⁴⁴ McCann (Reg. Supp. 2241, f.229); Gibson (Reg. Supp. 2241, 228^V-229); Stevenson (Reg. Supp. 2240, f.155^V).

³⁴⁵ 21 March 1539 (Reg. Supp. 2342, f.256^V-257).

per annum from the fruits of the vicarage. The presentation was to lie with the prior of Whithorn, while the vicar was to retain responsibility for all burdens on the vicarage.³⁴⁶ Stevenson subsequently became provost of the collegiate church: the link between the vicarage and the collegiate church may have been established in 1539.³⁴⁷ A similar connection is seen with another vicarage obtained by Stevenson, that of Dunrod which was also in Galloway diocese. This was united to the provostship of Biggar in 1555, having been sought by Stevenson in 1546 when he obtained the vicarage.³⁴⁸

One of the best-known of the Scottish procurators at Rome was John Duncanson and, although he himself does not appear to have successfully obtained provision to any parish churches, one of his relatives, Alexander Duncanson, was successful in gaining provision to the perpetual vicarage of Cleish in the diocese of St. Andrews. In 1531, it was held by David Young, who seems to have been a royal servant, but his possession of the benefice was challenged by Thomas Home.³⁴⁹ By 1535, Young's opponent was Alexander Duncanson: He sought provision on 12 June of that year because the case between them was pending and it was said that neither had right in it, while Young did likewise two weeks later.³⁵⁰ Duncanson's petition added that others as well as Young were challenging his right in Scotland. More details of this dispute was given in a letter from James V to the Cardinal of Ravenna in June 1537: he asked for the cardinal's support in the

³⁴⁶ James V Letters, 368-9; The date of the letter has been challenged by R.C. Reid, who thought that it must be after 22 August 1541 (Wigtownshire Chrs, 28).

³⁴⁷ Fasti, 342.

³⁴⁸ 31 May 1546 (Reg. Supp. 2575, f.126-126^v); 23 Oct 1545 (Reg. Supp. 2585, f.208^v); Cowan, Parishes, 55

³⁴⁹ 29 March (James V Letters, 191.

³⁵⁰ Reg. Supp. 2178, f.271-271^v; 25 June (Reg. Supp. 2186, f.156^v).

dispute which he said had been in progress for 8 years, stating that Young was a royal familiar but that Duncanson had more influence in Rome.³⁵¹ This was of little effect, however: over a year later, James V had to write again. In this letter, asking that speedy justice be given to Young, he claimed that Young had first been molested by Thomas Home, and subsequently by Duncanson, who was both surrogate in Home's right and was being given financial backing from John Duncanson (a statement which tends to confirm some relationship between them) which was enabling Duncanson to continue to maintain his challenge and, as a result, to reduce Young, whom he described as "a poor old man" and "a victim of malicious prosecution" to extreme poverty.³⁵² His plea was unsuccessful, for three years later, a concord was reached between the two claimants, presumably in reality a recognition by Young that he could not dislodge Duncanson. On 14 June 1541, he resigned in favour of Duncanson in return for the payment of some of his legal expenses and an annual pension of 12 merks Scots on the fruits, and they sought confirmation of this together.³⁵³ Rather oddly, this procedure was repeated on 18 September the following year, when Young ceded in Duncanson's favour as part of a concord.³⁵⁴ This appears to have been successful, although Duncanson did not survive to enjoy the vicarage for long: when John Anderson asked for provision to the benefice on 4 August 1544, it was because of Duncanson's death.³⁵⁵

David Methven was another of the Scottish procurators at the curia who was able to retain a parish benefice despite opposition, even

³⁵¹ 29 June (James V Letters, 332-333).

³⁵² 11 Sept.1538 (James V Letters, 351).

³⁵³ Resignation of Young (Reg. Supp. 2427, f.281-281^V); Confirmation of the concord (Reg. Supp. 2427, f.281^V-282^V).

³⁵⁴ Reg. Supp. 2464, f.296^V; Reg. Supp. 2464, f.297^V-298.

³⁵⁵ Reg. Supp. 2523, f.159^V-160.

though it took him twelve years to achieve final success. In 1537, Methven was having difficulty in obtaining possession of the perpetual vicarage of Lathrisk in St. Andrews diocese because of the presence of an intruder. On 9 April, he claimed that he had received papal provision to the benefice following a vacancy caused by the death of William Myrton in that month, but that he could not oust the intruder and therefore he asked for prorogation of his provision for a further beyond the three years allowed.³⁵⁶ This seems to have been at least temporarily successful for, in 1544, he petitioned for correction of the fruits and for provision *perinde valere*.³⁵⁷ The probable identity of the intruder was revealed two years later on 3 April 1546, when Methven was summoned by the Queen's advocate, John Lauder, for troubling Sir Robert Steill over the vicarage and for passing to Rome without a licence: the Lords however assolized him when he produced a licence from James V.³⁵⁸ For the next two years, the case does not appear in these records, but this is misleading. When Methven petitioned again for provision to the benefice in January 1548, he stated that Steill had died in the previous September and also asked that he could be made surrogate in any right held by Steill. He said that they had been litigating together in the curia and that he had received an adjudication in his favour against Steill, obtained presentation from the prior and convent of St. Andrews, and obtained it by ordinary authority or that of the vicar-general.³⁵⁹ A few days later, however, John Wardlaw was given royal presentation to the vicarage during the vacancy in the

³⁵⁶ Reg. Supp. 2240, f.180-180^v. He sought a further prorogation for six months on 2 October 1537.(Reg. Supp. 2259, f.13).

³⁵⁷ 4 June 1544 (Reg. Supp. 2524, f.189); Provision (Reg. Vat. 1621, f.18^v-19^v).

³⁵⁸ Inchcolm Chrs, 200-201.

³⁵⁹ 24 Jan.1548 (Reg. Supp. 2625, f.104^v-105).

see.³⁶⁰ He was not to re-appear, and it was Thomas Strathauchin who produced the final challenge: in January 1549, Methven asked to be given provision *si neutri* following upon litigation between Strathauchin and himself at the curia.³⁶¹ Whatever the immediate outcome, Methven held the vicarage at the Reformation and until he was deprived in 1573.³⁶²

One other possible outcome of attempts by the Scottish procurators at Rome to secure parish benefices was the grant of a pension on the fruits even when another claimant won his case. It may well be that in many cases such an outcome was the best that could be expected by these Scots, and indeed their purpose in seeking provision may on occasions have only been intended to achieve just such a result, with the financial benefits which would follow.

James Salmond, for example, achieved this form of success on two occasions. The first was concerned with the perpetual vicarage of Tynron, in the diocese of Galloway, a benefice usually served by canons of Holywood, to which the church was annexed.³⁶³ On 21 January 1535, two claimants, James Kennedy and Thomas McCann, both asked that they be provided to the vicarage which was vacant because of the death of John Watson the previous November, or by the death of William Welsche.³⁶⁴ Two years later, it was said to be vacant as a result of McCann's death, and James Salmond asked for provision to the

³⁶⁰ 4 Feb (RSS,iii,no.2618).

³⁶¹ 28 Jan (Reg. Supp. 2676, f.158-158^v). Strathauchin was seeking the benefice in 1535, when he asked for prorogation to oust an intruder on 7 September (Reg. Supp. 2189,f.219^v). It seems unlikely, given the lack of record evidence here, that he maintained active litigation until 1549.

³⁶² Haws, Scottish Parish Clergy, 156.

³⁶³ Cowan, Parishes, 203.

³⁶⁴ Kennedy (Reg. Supp. 2162, f.7); McCann (Reg. Supp. 2162, f.3^v).

vicarage.³⁶⁵ A fuller version of the case was provided in March 1539 when Salmond made another attempt to secure provision. McCann had been litigating with Thomas Welsche at the time of his death, and Salmond said that he had been made surrogate in Welsche's right and had obtained provision *in commendam*. He had then become involved in litigation with another member of the Welsche family, Robert. Because the vicarage had been vacant so long, it had devolved to the apostolic see, and his petition was based on this.³⁶⁶ This claim proved unsuccessful, and in April of the following year, Salmond finally yielded his right in the benefice and, in a petition linked with one from Robert Welsche asking for provision, sought an annual pension of 20 merks Scots on the fruits of the vicarage, together with the right of regress if payment ceased or was deferred.³⁶⁷ Welsche successfully retained the benefice until about 1567, so Salmond did not achieve any benefit from the potential regress.³⁶⁸

Salmond obtained a rather larger pension from the fruits of the perpetual vicarage of Carnbee in the diocese of St. Andrews which he tried to obtain in 1539. When David Multray died in August of that year, he was one of a number of claimants. His own petition was the first, on 25 September,³⁶⁹ but it was followed by requests for provision from two of his colleagues at Rome, David Methven and David Bonar.³⁷⁰ The Multrays were clearly wishing to retain the vicarage within their family,

³⁶⁵ 27 Aug. 1537 (Reg. Supp. 2260, f. 281-281^v).

³⁶⁶ 21 Mar. 1539 (Reg. Supp. 2324, f. 151^v-152^v).

³⁶⁷ 30 April 1540. Petition for provision of Robert Welsche (Reg. Supp. 2376, f. 216^v-217^v); Pension for Salmond (Reg. Supp. 2376, f. 217^v-218); PRO 31/9-33/103-4

³⁶⁸ Haws, Scottish Parish Clergy, 241.

³⁶⁹ Reg. Supp. 2353, f. 58^v-59.

³⁷⁰ Methven on 14 October (Reg. Supp. 2353, f. 91^v-92); Bonar on 1 November (Reg. Supp. 2352, f. 247^v).

for James Multray was a fourth candidate for provision on 9 November, like the others asking for provision because of David's death.³⁷¹ Finally, a fifth claimant, William Blair, appeared via a rather different route in February 1540. He claimed that he had obtained provision by apostolic authority from David Beaton, presumably under the terms of his indult granted the year before, and asked for a new provision: the Bishop of Caserta and the archdeacons of Dunkeld and Brechin were given a mandate to provide him.³⁷² James Multray however challenged this in the early summer of 1540, when he stated that he had been presented by David Beaton and that the Cardinal had then proceeded to provide Blair only because he had failed to get a new provision from the pope. He had therefore appealed to the apostolic see, asking for a commission for a decree of nullity against the action of the Cardinal, and this was granted, the chancellor and two canons of Aberdeen forming the commission.³⁷³ Multray emerged the victor from this dispute. On 5 April 1541, it was reported that a concord had been reached between Multray and Salmond who had obtained it by ordinary and apostolic authority respectively, and Salmond yielded any right he had in favour of Multray, who asked the pope for provision to the vicarage, the fruits of which were £15 sterling. Salmond was compensated with a pension for life of £20 Scots in return for both his resignation and contributing a half-share towards the expenses of Multray's litigation against William Blair until he obtained peaceful possession.³⁷⁴ Although these records do not confirm that Multray was

³⁷¹ Reg. Supp. 2355, f.58^v-59.

³⁷² 24 Feb.(Reg. Supp. 2367, f.171^v); Provision (Reg. Lat. 1703, 260^v-261). Blair sought a further new provision on 19 March (Reg.Supp. 2371, f.145-145^v)

³⁷³ 8 June (Reg. Supp. 2378, f.44); 18 June (Brev. Lat. 31, f.359)

³⁷⁴ Reg. Supp. 2417, f.117^v-118^v.

able to remove the threat from Blair, it seems certain that Salmond certainly did not succeed in obtaining the vicarage; on the other hand, he was able to secure reasonable financial compensation for his efforts.

John Thornton junior was also able to force an adversary to buy him off with a pension in order to gain possession of a parochial benefice. When the parsonage of Edzell, an independent parsonage in the patronage of the archbishop of St.Andrews, became vacant following the death of Arthur Boys in April 1536, two claimants rapidly asked for provision. John Thornton junior made the first petition on 23 May, and David Paniter followed four days later.³⁷⁵ The immediate outcome of this is not clear, and it was not till 1539 that further supplications were made. In February of that year, a new litigant emerged in the form of William Mowbray, who was in possession of the parsonage, and caused Thornton to seek prorogation of his provision so that he could oust Mowbray.³⁷⁶ In June 1539, John Foulis, who was stated to be in his thirteenth year, entered the lists, claiming that both Mowbray and Thornton had resigned, or that David Paniter had resigned. Foulis sought and obtained provision himself *in commendam* till he reached his eighteenth year and then *in titulum*.³⁷⁷ Three years later, Thornton petitioned for an annual pension of £20 Scots from the fruits of the parsonage until Foulis found him another benefice of similar or greater value (which was £40 sterling): if this was not paid, Thornton was to have regress.³⁷⁸ Given the gap before Thornton asked for the pension, there is always the possibility that this was a last attempt by Thornton

³⁷⁵ Thornton (Reg. Supp. 2217, f.124-124^v); Paniter (Reg. Supp. 2217, f.124^v).

³⁷⁶ 28 Feb.(Reg. Supp. 2342, f.238^v)

³⁷⁷ 22 June (Reg. Supp. 2339, f.237-237^v); Provision (Reg. Vat. 1530, f.222-223^v).

³⁷⁸ 12 May 1542 (Reg. Supp. 2459, f.141).

to salvage something from the dispute rather than an arrangement between Foulis and himself. In those circumstances, it cannot be certain that Foulis did indeed pay the pension, but in the absence of evidence to the contrary, it seems reasonable to assume that he did secure the pension. In any case, Foulis certainly retained the parsonage at least until 1566.³⁷⁹

A variation on this theme was adopted by another of the procurators at Rome. David Methven, who successfully obtained the vicarage of Lathrisk, had less good fortune when he attempted to secure the perpetual vicarage of Linton in Glasgow diocese, but was able to force his adversary, Adam Kingorne, to exchange the perpetual vicarage of Fogo in St.Andrews diocese, a benefice which, like Linton, was in the patronage of the abbey of Kelso, in order to obtain the Glasgow parish. In May 1544, Adam had sought provision to the vicarage when James Schoriswood had resigned in his favour. He had agreed to allow Schoriswood to retain, as an annual pension, all the fruits of the benefice, and also reserved an annual pension of £20 Scots to Richard Schoriswood, while James was able to retain the right of regress if Adam yielded the vicarage or died.³⁸⁰ Schoriswood died in that month, and this led to two further requests for provision in the autumn of 1544. Adam Kingorne and David Methven both sought provision on 24 October, and Methven was given a bull of provision, which stated that Robert Walderston was detaining it illegally.³⁸¹ They were not however the only claimants for, a few days later, William Gordon claimed that he had obtained it by apostolic provision some time previously, but now doubted

³⁷⁹ 11 Oct 1547 (Reg. Supp. 2618, f.293-293^v); Haws, Scottish Parish Clergy, 80.

³⁸⁰ 14 May (Reg. Supp. 2519, f.210-210^v).

³⁸¹ Kingorne (Reg. Supp. 2524, f.183^v); Methven (Reg. Supp. 2524, f.200^v); Provision for Methven (Reg. Vat 1635, f.350-352).

the validity of this and so was seeking a new provision.³⁸² Methven asked for papal provision on two further occasions in the next three years, claiming in the first that any provision to Kingorne or Gordon was void on account of their incapacity, and in the second that Robert Walderston was again his main adversary.³⁸³ Soon afterwards, however, he adopted a different strategy. On 8 August 1547, he made a supplication which stated that, although he had obtained provision to the vicarage and a judgement in his favour against Robert Walderston, he and Adam Kingorne now proposed to exchange the vicarages of Linton and Fogo. They asked the pope to provide them to their new benefices, and Kingorne was given a bull of provision to Linton.³⁸⁴ Methven had already received crown presentation to the vicarage of Fogo in October 1546 as a result of Kingorne's resignation.³⁸⁵ The dispute seems to have been settled by this arrangement. It may be worth noting that Kingorne was given not only the vicarage of Linton, but also probably the task of removing Walderston, since the bull refers to the need to do this: it may be wondered who got the better of the bargain in this exchange. Kingorne must have been successful in this quest, since he was still in possession of the vicarage of Linton at the Reformation.³⁸⁶

The perpetual vicarage of Linton was the subject of earlier litigation involving another Scot at Rome who was rather less well-known than those mentioned above. John Burnet, a familiar of James Cordellas,

³⁸² 27 Oct. (Reg. Supp. 2524, f.183).

³⁸³ 3 May 1545 (Reg. Supp. 2539, f.171-172); 8 June 1547 (Reg. Supp. 2610, f.215-215^V).

³⁸⁴ Reg. Supp. 2610, f.246; Provision of Kingorne (Reg. Lat. 1785, f.323^V-326); On 19 December, Kingorne obliged himself for the annates of provision on Linton (PRO31/9-33/234- 5)

³⁸⁵ 8 Oct. (RSS, iii,no.1946).

³⁸⁶ Haws, Scottish Parish Clergy, 162

an apostolic scriptor, was also able to force some financial benefit from this dispute, although he was not able to obtain the vicarage itself. Burnet first asked for provision to Linton in August 1536, when the vicarage was vacant as a result of the resignation of Thomas Craig, and he obtained provision.³⁸⁷ He does not appear to have felt secure in his right, for, on several occasions, he sought either a new provision or prorogation of his provision because of the distance of Scotland or the wars in the country.³⁸⁸ By the autumn of 1538, Burnet was in dispute with George Dury, archdeacon of St. Andrews and, indeed, this may have been the cause of his earlier unease. In September, an agreement was reached that Burnet was to yield his right in the benefice and Dury was to obtain the vicarage; Burnet was also to receive an annual pension of £20 Scots on the fruits together with the right of regress if Dury failed to pay the pension. They jointly asked for papal confirmation of this agreement in a petition of 11 September.³⁸⁹ This was presumably successful, although Dury cannot have held it for long since by May 1544, as is indicated above, James Schoriswood was the vicar. Nevertheless, this indicates how a relatively unknown Scot at Rome could obtain some financial reward as a result of challenging a powerful adversary such as Dury, who was commendator of Dunfermline as well as the senior archdeacon in St. Andrews, and cousin to David Beaton.³⁹⁰

³⁸⁷ 16 Aug.(Reg. Supp, 2220, f.205^V-206); Provision (Reg. Lat. 1680, f.67-68^V).

³⁸⁸ 5 Sept.1546 (Reg. Supp. 2225, f.76^V-77); 28 Feb.1537 (Reg. Supp. 2255, f.114); 21 Nov.1537 (Reg. Supp. 2270, f.295-295^V); 29 Dec.1537 (Reg. Supp. 2269, f.300^V); 14 Jan.1538 (Reg. Supp. 2273, f.192^V-193); 13 May 1538 (Reg. Supp. 2293, f.39).

³⁸⁹ Reg. Supp. 2297, f.14-14^V.

³⁹⁰ A second example of this, if one with a less well known benefice-holder, is provided by James Brown, another Scot at Rome, who forced James Cromby, perpetual vicar of Tealing, to grant him a pension of 20 merks Scots per annum on the fruits to buy off his opposition on 1 March 1535 (Reg. Supp. 2169, f.28- 28^V).

The Scottish procurators at the curia were often not able to achieve even this limited financial success in their efforts to secure parochial benefices in their own land. There are many cases when they simply failed altogether in their litigation. This happened to David Bonar, for example, on three occasions. He first petitioned for provision to the perpetual vicarage of Leswalt in Galloway on 15 December 1536, when he said that the benefice was vacant as a result of the death of Thomas Nicholson in November.³⁹¹ Just over a month later, however, Thomas Melville, parson of Hutton, asked for a new commendation to the vicarage, stating that he had already obtained it by ordinary authority, but that the validity of this was questioned by some.³⁹² Bonar may have responded immediately to this challenge, and certainly did so two years later, when he asked for prorogation of his provision for a year because he could not take possession of the benefice on account of an intrusion by another claimant.³⁹³ This was unsuccessful, however, and Bonar finally acknowledged defeat in 1543. In August of that year, Melville asked for papal provision, stating that he had obtained it by ordinary authority, but that David Bonar had held it by apostolic authority and had raised a case against him; David had subsequently however resigned in his favour in the hands of Henry, bishop of Galloway. It was not till late October that an actual cession of right in the benefice was registered.³⁹⁴ Melville held the vicarage until shortly before the Reformation.³⁹⁵

³⁹¹ Reg. Supp. 2236, f.243^v-244.

³⁹² 23 Jan. 1537 (Reg. Supp. 2237, f.258^v).

³⁹³ 21 March 1539 (Reg. Supp. 2551, f.222-222^v).

³⁹⁴ 15 Aug. (Reg. Supp. 2490, f.162^v-163); Cession by Bonar on 30 October (Reg. Supp. 2493, f.209^v; PRO 31/9-33/159).

³⁹⁵ Haws, Scottish Parish Clergy, 160.

Bonar's second failure occurred when he tried to obtain the vicarage of Collessie in the diocese of St. Andrews when John Thornton junior died sometime in March 1547. Early the following month, he asked the pope to provide him to the benefice because of its vacancy *per obitum*.³⁹⁶ March was not, however, one of the months reserved to papal provision, and claimants in Scotland were not slow to note Thornton's death. Kentigern Livingstone obtained royal presentation within a few days, and later that year, he asked for a new provision from the pope, stating that he already had ordinary authority.³⁹⁷ If Livingstone did hold the vicarage, it was only for a short time, because in September 1547, he was said to be dead when Thomas Scot was granted presentation to the benefice by the crown.³⁹⁸ The Thornton family briefly appeared again when James Thornton claimed that it was unlawfully detained by James Rolland and sought provision in January 1548.³⁹⁹ This seems to have been quite unsuccessful, because Thomas Scot was in possession at the Reformation.⁴⁰⁰ A single attempt by Bonar to oust Andrew Stevenson from the pensionary vicarage of Whithorn in 1536 also met with no success. The petitions relating to this indicate that Andrew was a canon of the priory of Whithorn to which the church was appropriated.⁴⁰¹

³⁹⁶ 3 April (Reg. Supp. 2609, f.206).

³⁹⁷ 8 April (RSS, iii, no. 2241); Provision sought on 4 July (Reg. Supp. 2616, f.101^v).

³⁹⁸ 26 Sept. 1547 (RSS, iii, no. 2456).

³⁹⁹ 24 Jan. 1548 (Reg. Supp. 2626, f.176-176^v).

⁴⁰⁰ Haws, Scottish Parish Clergy, 44.

⁴⁰¹ Bonar requested a new commendation on 1 October 1536, claiming that he had obtained it by ordinary authority (Reg. Supp. 2224, f.47^v-48); Stevenson resigns in favour of Robert Stevenson, who was also a canon of Whithorn, while retaining all the fruits and the right of regress, on 20 December 1541 (Reg. Supp. 2407, f.261); Cowan, Parishes, 209.

David Bonar and James Salmond were both unsuccessful in their attempts to obtain the perpetual vicarage of Longforgan. In May 1536, the benefice was void by the death of Arthur Boys in the previous month, and Salmond asked that he be provided.⁴⁰² Three other litigants soon entered the contest, William Hepburn on 27 May, Andrew Lockhart on 8 July and James Strathauchin, who claimed that he already had ordinary authority to the vicarage, on the 24th of that month.⁴⁰³ This strong challenge seems to have discouraged Salmond for, early in 1537, he ceded his right in the benefice to David Bonar, who sought and was granted provision by the pope.⁴⁰⁴ Just as Salmond appears to have retired from this dispute, so did his original three opponents (with one possible exception). On 21 September 1538, Michael Disart, described as a familiar of the King, asked for papal provision stating, as Strathauchin had done previously, that he had already obtained the benefice by ordinary authority but that this was doubted by some.⁴⁰⁵ Bonar did not give up his claim without a struggle: in March of the following year, he sought prorogation of his provision for a year beyond the three years allowed in order to oust an intruder.⁴⁰⁶ This was not successful, however, for in March 1544 it was said that Michael Disart had resigned in the hands of Cardinal Beaton and George Scott was given ordinary authority to hold the benefice, a possession which he tried to strengthen by seeking papal provision.⁴⁰⁷

⁴⁰² 23 May (Reg. Supp. 2217, f.189-189^v).

⁴⁰³ Hepburn (Reg. Supp. 2228, f.70-70^v); Lockhart (Reg. Supp. 2219, f.42-42^v); Strathauchin (Reg. Supp. 2221, f.97-97^v).

⁴⁰⁴ 11 Jan.1537 (Reg. Supp. 2234, f.96^v-97); Provision (Reg. Vat. 1635, f.126-127).

⁴⁰⁵ Reg. Supp. 2307, f.125^v-127.

⁴⁰⁶ 21 Mar.(Reg. Supp. 2351, f.222-222^v).

⁴⁰⁷ 13 March (Reg. Supp. 2524, f.189). This petition hints at the possibility that Strathauchin might have continued to hold some

Salmond again met with eventual failure when he tried to retain the perpetual vicarage of Binning in St. Andrews diocese, although he did hold it in some way for five years before he was ousted by James Bachelor. He first asked to be given provision to the benefice in December 1534, when it was vacant as a result of the resignation of William Chirnside and he said that he already had ordinary authority.⁴⁰⁸ When he repeated the request a few weeks later, the cause of the vacancy was said to be by cession of Thomas Dickson in the hands of the ordinary.⁴⁰⁹ He seems to have held it for five years but, early in 1540, he asked to be given new provisions to three benefices, including Binning.⁴¹⁰ In October 1541, however, he resigned the vicarage, and he and James Bachelor asked that the pope would provide Bachelor and also grant Salmond the right of regress if Bachelor died or resigned the benefice.⁴¹¹ In August 1543, Bachelor was the vicar,⁴¹² but two years later, Salmond seems to have made an attempt to pre-empt the regress and seize the benefice back for his family in a piece of opportunism. On 18 September 1544, he was said to have resigned and his brother, Robert, asked for provision.⁴¹³ No success attended this request, and Bachelor retained the vicarage until 1548, when he was said to have

right in the benefice, by giving his resignation as a possible alternative cause of the vacancy.

⁴⁰⁸ 29 Dec. (Reg. Supp. 2164, f.32).

⁴⁰⁹ 21 Jan.1535 (Reg. Supp. 2170, f.65^V-66).

⁴¹⁰ 18 Feb.1540 (Reg. Supp. 2396, f.25-25^V).

⁴¹¹ 4 Oct. (Reg. Supp. 2434, f.231^V-232).

⁴¹² 27 Aug.1542 (Reg. Supp. 2464, f.296-296^V)

⁴¹³ Reg. Supp. 2525, f.264-264^V

died and Sir John Pery was presented by the crown to the benefice during the vacancy in the see.⁴¹⁴

Like Bonar and Salmond, John Thornton junior was unsuccessful in at least one of his attempts to secure a benefice for himself. When the perpetual vicarage of Logie-Durno in the diocese of Aberdeen fell vacant on the death of James Menzies in October 1542, Thornton endeavoured to obtain provision from the pope early the following year.⁴¹⁵ This provision was not effective: John Philp appears to have obtained the vicarage by other means. When Thornton next took action in the curia in October 1544, he claimed that Philp was detaining the vicarage unlawfully: because of the power of his adversary and the distance of the church from Rome, he could not oust him, so he asked for provision for a year beyond the three years allowed to remove him.⁴¹⁶ The next reference to the vicarage in these records was not for three more years, when Alexander Thornton asked to be given provision to the benefice, following John Thornton's death. No mention was made of Philp in the petition although the general disclaimer that any other provision was void by incapacity may well have had more than formal significance on this occasion.⁴¹⁷ In fact, Philp almost certainly retained possession throughout this period: he certainly held the benefice in 1546 and beyond the Reformation.⁴¹⁸ It seems highly probable that he was a member of the Philp family who from 1523 to 1566 held the abbacy of Lindores, to which the church was

⁴¹⁴ 28 May (RSS,iii, no.2793). Salmond also failed to obtain the parsonage of Tannadice which was eventually united to the College of St. Mary's.(Reg. Supp. 2329, f.297-298).

⁴¹⁵ 14 Jan.1543 (Reg. Supp. 2480, f.34^v: Reg. Supp. 2476, f.85-85^v).

⁴¹⁶ 14 Oct. (Reg. Supp. 2525, f.281v).

⁴¹⁷ 25 June 1547 (Reg. Supp. 2610, f.195^v-196).

⁴¹⁸ Haws, Scottish Parish Clergy, 166.

appropriated. If this is so, it is quite understandable why Thornton was unable to mount a successful challenge to a member of the family of the head of the appropriating body.⁴¹⁹

There are other similar examples of the lack of success experienced by Scottish procurators in securing such benefices, such as John Stevenson's vain attempt to obtain the parsonage of Tarvit during 1547 and 1548 in competition with Nigel Laing.⁴²⁰ In addition, there are several cases involving this group of Scotsmen where the immediate outcome is unknown. Such a case is the dispute between David Bonar and John Stevenson over the vicarage of Cruggleton in the diocese of Galloway in 1537.⁴²¹ Bonar and Stevenson also found themselves in dispute with a third claimant between 1535 and 1539 over the pensionary vicarage of Kirkinner, in litigation whose result is not clear.⁴²² The final outcome of these and other cases can only be solved by detailed study of local evidence, the records of the Rota and, no doubt in some cases, the supplications and bulls of Paul III's successor, Julius III.

At one end of the spectrum of rights which determined appointments to benefices was the Scottish crown, as the most powerful representative of patronage within Scotland and, as has been seen, both James V and the earl of Arran exercised this on numerous occasions. At the other end of the spectrum was the papacy itself. Although parochial

⁴¹⁹ Lind. Cart., 310-3; Cowan, Parishes, 137.

⁴²⁰ Reg. Supp. 2647, f.191^v; RSS,iii, 2386; RSS,iv,no.36.

⁴²¹ Reg. Supp. 2264, f.112^v-113; Reg. Supp. 2240, f.154^v-155; Reg. Supp. 2351, f.222-222^v.

⁴²² Reg. Supp. 2171, f.291-291^v; Reg. Supp. 2235, f.280^v; Reg. Supp. 2258, f.35-35^v; Reg. Supp. 2351, f.222-222^v; PRO 31/9-33/56.

benefices did not attract personal papal attention as happened with major benefices on occasions, powers could be delegated to individuals to act with apostolic authority in regard to such appointments. In this respect, the indults made by Paul III to David Beaton, initially in 1539 relating to benefices already at his disposition but also covering the months usually reserved to the papacy, and more substantially when he was granted extensive powers over the lesser benefices as legate *à latere* in January 1544, provided a potential substitute for the exercise of papal authority.

By definition, the existence of these rights must have meant that some of these appointments were made without reference to Rome, and no record of them would appear in the records which form the basis for this study. A copy of a letter of provision to a vicarage under the Indult of 1544 is recorded in the *St. Andrews Formulare*.⁴²³ There is also direct evidence of Beaton utilising his authority under these indults. On 15 July 1545, for example, an instrument was issued recording a grant of the parsonage of Wigtown, an independent church usually in the patronage of the priory of Whithorn, to Patrick Wauss, son of John Wauss of Barnbarroch, following his provision, in bulls dated 9 June of that year, by the archbishop of St. Andrews, acting in his capacity as "*legatus natus*".⁴²⁴ Further examples are cited earlier in this chapter and, as Margaret Sanderson has indicated, other letters of provision have also survived.⁴²⁵

The Vatican records do, however, make a few references to the exercise of these powers by Beaton. When, for example, William Blair, one of five contestants for the vicarage of Carnbee in 1540, asked for a new

⁴²³ *St. A. Form*, ii, no. 423.

⁴²⁴ *Wigtownshire Chrs*, 228, no. 293.

⁴²⁵ See above, p. 259, 265, 288; Sanderson, *Cardinal of Scotland*, 109.

provision following the death of the last vicar in a reserved month, he claimed that he had received provision by apostolic authority from David Beaton.⁴²⁶ The outcome of this litigation, ending in Blair's failure to secure the benefice, indicates that the exercise of these powers did not, even when accompanied by Beaton's personal authority, necessarily guarantee success.

James Rolland, who was commissary of St. Andrews under Beaton, was more successful in his attempt to obtain the vicarage of Glamis in the 1540s. He was stated to have been provided to the vicarage by David Beaton acting under the "apostolic indult for provisions to benefices", when he too asked the pope for a new provision on 11 May 1544, because the validity of the earlier provision was doubted by some.⁴²⁷ As happened to William Blair, Rolland's possession of the vicarage was challenged, in this case by James Thornton in January 1548.⁴²⁸ Unlike Blair, however, Rolland was able to maintain his hold on the benefice, which he retained beyond the Reformation.⁴²⁹

It is clear, however, both from these examples and also the evidence of other supplications during this period that the grants to Beaton, particularly that of the legateship, did not stop requests for appointments continuing to go to Rome.

The influence of factors within Scotland in making appointments to parish churches and the cure of souls demonstrate the powers which

⁴²⁶ 24 Feb.(Reg. Supp. 2367, f.171^v).

⁴²⁷ Reg. Supp. 2510, f.279^v.

⁴²⁸ 24 Jan.(Reg. Supp. 2626, f.176-176^v).

⁴²⁹ Haws, Scottish Parish Clergy, 97.

could be exercised by the crown and other patrons in such benefices. Nevertheless, as has been shown, the system of papal reservation could put even the most clear-cut right in doubt and, to this extent, every possible precaution to ensure smooth succession to a benefice was to be taken. In this respect, the system itself provided some safety devices which appear to have been used throughout the whole organisational structure of the church.

The use made of the device of *resignatio in favorem* by families to secure the succession to a parish cure within the family is perhaps the most common. It has appeared incidentally on several occasions earlier in this chapter, but it is worthwhile indicating its scale, and examining its success or lack of it in rather more detail.

The normal manner in which this device was used was to ask both for the provision of a new holder and for the original holder to retain all the fruits of the benefice and the right of regress. In many instances, indeed, the original holder of the benefice retained the title of "parson" or "vicar" of the church in question. This ensured that if the holder died or resigned the benefice, the family would still retain possession. The device is very much linked with the prevalent thinking at this time of the benefice as a form of property and, to many families, it must have been seen as a source of revenue like a piece of land, judging by the number of examples of its use. One other striking feature is that several families engaging in this practice seem to have been willing to go through the whole process of provision, including the expense of obtaining a papal bull presumably in order to ensure the effectiveness of the exercise. Considerably more bulls have survived in the registers recording this kind of process than have been found for straightforward provisions or for the disputes discussed above. By and large, their confidence in the efficacy of the procedure was not ill-founded.

One example of the practice can be seen with the perpetual vicarage of Forgue in the diocese of Aberdeen. On 2 September 1539, George Houston resigned the benefice in the hands of the pope and George Ogilvy, a clerk of the diocese, asked for provision, with the proviso that the fruits should remain with Houston for life along with the right of regress if Ogilvy should die or resign, that he should retain his manse, and that his executors should obtain the annates or half the fruits of the first year after his death. In the petition, the patron was said to be the lord of Frendraught, William Crichton, who had granted the parsonage of the church to Arbroath in the thirteenth century.⁴³⁰ The bull giving mandate to the Bishop of Caserta, the abbot of Kinloss and the subdean of Ross to provide George Ogilvy and the reservation of the fruits to Houston survives.⁴³¹ The important point here was that, as the petition made clear, Ogilvy was Houston's nephew by his sister. On 15 September, James V wrote to Cardinal Ghinucci saying that he had heard that the pope had prohibited all regresses and reservations of fruits and "none too soon in James's opinion", but sooner than suited either Ogilvy or the King, and he asked the Cardinal to persuade the pope to let this one stand.⁴³² Ogilvy certainly held the vicarage in April 1540 and in 1543, when he was Chancellor of Dunblane, while Houston was described as vicar in 1542, exemplifying the common custom described in the introduction to this section.⁴³³

⁴³⁰ Reg. Supp. 2353, f.106-107; Cowan, Parishes, 69; I.B.Cowan, "The medieval church in the diocese of Aberdeen", 36.

⁴³¹ Reg. Lat. 1703, f.220-220^v: Reg. Lat. 1703, f.220^v-222^v.

⁴³² James V Letters, 378-9.

⁴³³ 28 April 1540 (Reg. Supp. 2372, f.178^v-179); 20 Aug.1543 (Reg. Supp. 2480, f.189^v); Haws, Scottish Parish Clergy, 92; Haws reference (RMS,iii,no.2777) transcribes Houston's name as Hogstoun and the royal letter as Ogstoun.

A second instance of this within the same diocese occurred with the perpetual vicarage of Kinnethmont, a church annexed to the abbey of Lindores. Alexander Spittal resigned the benefice in November 1538 and petitioned, along with James Spittal, for the pope to provide James, while the fruits and returns were to be reserved for Alexander along with the right of regress, and together with a reservation to his executors of all the annates or half the fruits of the first year after his death: these requests were all granted.⁴³⁴ This seems to have been successful, for James seems to have retained it until his death sometime before 1580.⁴³⁵ The use of a benefice as a piece of family property was just as common in other parts of the country. The church of Lasswade was also treated in this way by the Learmonth family in the 1540s. This church had a an extremely varied history with regard to appropriation but, after 1487, the parsonage and vicarage were apparently annexed to the deanery of the collegiate church of Restalrig, leaving the cure as a pensionary vicarage.⁴³⁶ John Learmonth having obtained this benefice in 1536,⁴³⁷ resigned in favour of his natural brother, James, eight years later. They successfully petitioned together that James be given papal provision, together with the usual conditions regarding fruits and regress for John.⁴³⁸ James subsequently sought prorogation of provision on 3 occasions within the next year.⁴³⁹ In the absence of any evidence

⁴³⁴ 27 Nov.(Reg. Supp. 2329, f.282^v-283^v); Provision (Reg. Lat. 1697, f.59^v-60); Reservation of fruits and regress (Reg. Lat. 1697, f.60^v-62^v). Less than a year later, on 26 September 1549, James asked for a provision *perinde valere* because the value of the fruits had not been correctly stated (Reg. Supp. 2346, f.246-247).

⁴³⁵ Haws, Scottish Parish Clergy, 141.

⁴³⁶ Cowan, Parishes, 128.

⁴³⁷ 6 July (Reg.Supp.2217,f.243-243v).

⁴³⁸ 4 Nov.1544 (Reg. Supp. 2530, f.222v); Provision (Reg. Lat. 1661, f.40-41); Reservation of fruits and regress (Reg. Lat. 1661, f.39-40).

⁴³⁹ 14 Feb.1545 (Reg. Supp. 2542, f.1); 4 May (Reg. Supp. 2539, f.174^v); 19 May (Reg. Supp. 2543, f.229).

to the contrary, it seems reasonable to assume that the transaction was successful.

The perpetual vicarage of Straiton in Glasgow diocese provides a further illustration of this activity by Scottish families. The benefice was resigned in the hands of the pope in 1535 by Thomas Boswell, and William Boswell twice asked for provision.⁴⁴⁰ This was successfully obtained after the second petition when it was clear that the arrangement was very much the standard one outlined above: Thomas sought reservation of the fruits and returns, and the right of regress if William died or resigned, together with in this case retention of the vicar's manse.⁴⁴¹ William, according to the papal provision, was a familiar of Cardinal Symonete: he may have been resident in Rome, although, if so, he was not one of those who are notable because of their benefice-seeking activities. On 9 March 1537, they both sought a prorogation of the provision for 6 months so that it could be published and, a rather rarer occurrence, William promised to pay the annates of the vicarage, having already paid part of them two weeks earlier.⁴⁴² The benefice continued with William until his death around 1566.⁴⁴³

The perpetual vicarage of Sprouston which was also in the diocese of Glasgow, was similarly passed between two members of the one family. In June 1538, Richard Richardson resigned in favour of David Richardson, and the pope was asked to provide David, who was in his fifteenth year *in commendam* until his eighteenth year and fully thereafter. At the same time, reservation of the fruits and the right of

⁴⁴⁰ 29 Oct.(Reg. Supp. 2189, f.207^V); 10 Dec.(Reg. Supp. 2195, f.86)

⁴⁴¹ Provision (Reg. Lat. 1646, f.100-103); no record of the granting of the reservation of the fruits or the right of regress has been traced.

⁴⁴² Reg. Supp. 2239, f.96; PRO 31/9-33/51-52

⁴⁴³ Haws, Scottish Parish Clergy, 227.

regress were also sought for Richard, and these requests were both granted.⁴⁴⁴ Although none of the records state the exact relationship between the two Richardsons, it can hardly be doubted that they were indeed related. By 1550, it was held by Thomas Richardson, who was presumably a further member of the family.⁴⁴⁵ A final example of the successful use of this practice can be provided by coming back to the north-east of the country, to the perpetual vicarage pensionary of Wardlaw in the diocese of Moray. Andrew Cuthbert resigned the vicarage in November 1541 in favour of his nephew, James, notwithstanding his defect of birth as the son of an unmarried man and woman. James thereupon petitioned for provision, while Andrew asked for reservation of the fruits and returns for life, along with provision for regress in the standard circumstances; these requests were granted.⁴⁴⁶ It certainly appears as if the family were successful in their action: in 1557, it was occupied by David Cuthbert, presumably a relative of the two petitioners, who continued in possession beyond the Reformation.⁴⁴⁷

These examples are typical of many found amongst the Vatican records. Further cases are found in relation to other parochial benefices, the Shaws in the vicarages of Borgue and of Coul, the Lindsays in that of Newtyle, the Ramsays at Torphichen and the Salmonds (a resignation by James Salmond, whose other benefice activities have already been discussed) at Cluny, being amongst them.

⁴⁴⁴ 16 June 1538 (Reg. Supp. 2286, f.113^V-114); Provision (Reg. Lat. 1657A, f.142^V-144^V); Reservation of fruits and regress (Reg. Lat. 1657, f.130^V-132)

⁴⁴⁵ 24 Feb.1550 (RSS,iv,no.571).

⁴⁴⁶ 25 Nov.(Reg. Supp. 2439, f.48^V-49^V); Provision (Reg. Lat. 1726, f.303-304); Reservation of fruits and regress (Reg. Lat. 1726, f.304^V-306).

⁴⁴⁷ 26 Sept. (RMS,iv,no.1234).

In all these examples, the resigning holder retained all the fruits of the benefice along with the right of regress. In few, if any, of these is it likely that this right was ever exercised, and it was presumably intended as an insurance policy. It was the case that, in financial terms, the new vicar (as all these were) would only become the possessor of the benefice when the original holder died. Indeed in some cases, such as Forgue and Straiton, the retiring vicar specifically retained possession of his manse, and it may well be that this was common practice. On other occasions, however, although the intention appears to be the same, there were variants in the way it was carried out. In some, for example, the original holder of the benefice seems to have resigned in practice and allowed his successor to take the fruits while perhaps retaining a small pension on the fruits. It is possible that in these cases, the first holder was in fact considerably older and was indeed withdrawing from some activities, although there is no evidence either to confirm or contradict this.

The records relating to several churches illustrate this variation of the transfer of benefices between members of the same family. The perpetual vicarage of Cambusnethan, a mensal church of the archbishopric of Glasgow, was retained in the Balfour family in this way. John Balfour was said to have resigned when John Balfour obtained papal provision on 15 April 1539, and Peter obtained an annual pension of 20 merks Scots rather than of the whole fruits, along with the right of regress if John did not pay the pension.⁴⁴⁸ A petition for provision together with the granting of the pension and its conditions was subsequently made by John Balfour early the following year.⁴⁴⁹ Despite

⁴⁴⁸ Provision (Reg. Lat. 1701, f.328-329^v); Pension and right of regress (Reg. Lat. 1701, f.330-332); no supplication of this date has been traced.

⁴⁴⁹ 24 Feb.1540 (Reg. Supp. 2368, f.113^v-114); repeated 27 March (Reg. Supp. 2365, f.168-168^v).

opposition in 1547 and 1548, when there were three royal presentations for different individuals, claiming in turn that three members of the Balfour family, Alexander, Peter and John, had resigned, and the last presentation stating that John was a "pretended vicar and possessor",⁴⁵⁰ John appears to have kept possession until 1549, when he twice petitioned for a new provision.⁴⁵¹ The fact that he felt this to be necessary may suggest that his hold on the benefice was not secure. Although the final outcome of these processes is unclear, but it seems clear that the Balfour family maintained its hold on the vicarage throughout most of the 1540s. The Balfours may well have come from the family which held the treasurership of Glasgow from 1526 to 1561, and the last supplications suggest that John himself held two prebends within the cathedral in 1549.⁴⁵²

A rather different arrangement was made when David Cunningham resigned the perpetual vicarage of Stevenston in November 1539. In this case, David simply resigned the benefice and petitioned, along with Adam Cunningham, that the pope would provide Adam to the vicarage while granting David the right of regress if Adam died or yielded his right in it, a request which was granted.⁴⁵³ David held it until 1548 when, following his death, he was succeeded by James Walker, parson of Killintag.⁴⁵⁴

⁴⁵⁰ 22 July 1547 (RSS,iii,no.2340); 10 Oct.1548 (RSS,iii,no.2989); 10 Nov.1548 (RSS,iii,no.3016)

⁴⁵¹ 4 May.(Reg. Supp. 2661, f.7; Reg. Supp. 2673, f.125^V-126).

⁴⁵² Fasti, 166; the holding of several benefices was presumably the reason why the cure was served by Sir John Lindsay as a curate in 1544 (Haws, Scottish Parish Clergy, 35).

⁴⁵³ 23 Nov.(Reg. Supp. 2357, f.218-218^V); Provision (Reg. Lat. 1726, f.235^V-237); Regress (Reg. Lat. 1658, f.102^V-103). David asked for a correction of the fruits on 14 June 1542 (Reg. Supp. 2458, f.231^V-232).

⁴⁵⁴ 26 Nov.(RSS,iii,no.3031).

There could be other reasons why the precise terms of the succession might vary from the pattern outlined above. The perpetual vicarage of Monkton was held in succession by two members of the Forester family from 1541 for many years. This stands outside the mainstream of such processes since the transfer followed the death of the original holder rather than a resignation. James Forester had obtained possession of the benefice in July 1541, when he petitioned for provision to it on the death of John Sandelands.⁴⁵⁵ He himself had however died by 22 September 1547, when Matthew Forester was presented by the crown to the vicarage during the vacancy in the see.⁴⁵⁶ However, he subsequently felt the need to strengthen his possession, saying in May 1549 that he had obtained provision by ordinary authority on the death of James, who was his natural brother, but was seeking a new provision since he feared that it might still be regarded as vacant.⁴⁵⁷ This was clearly successful, for Matthew remained vicar until he had demitted office in 1579.⁴⁵⁸

As has been seen in the case outlined above, such transfers of parish churches within families were also transacted purely in Scotland, presumably where vacancies did not fall under the rules of papal reservation. Two generations of the Chisholm family held the perpetual vicarage of Cadder in succession during the 1540s. On 12 October 1547, Michael Chisholm was given royal presentation to the vicarage and its pendicle of Monkland when it became vacant on the death of his uncle,

⁴⁵⁵ 17 July (Reg. Supp. 2425, f.251-251^v; Reg. Supp. 2423, f.288^v).

⁴⁵⁶ RSS,iii,no.2445.

⁴⁵⁷ 12 May 1549 (Reg. Supp. 2661, f.5).

⁴⁵⁸ Haws, Scottish Parish Clergy, 183. This was not an isolated example. The same thing happened with two other benefices at least: two members of the Hay family held the parsonage of Melville in succession around 1547, and the pensionary vicarage of Stow was held by two Hopringills in succession in the same year. (RSS, iii,no.2503: RSS,iii,no.2465).

Sir John Chisholm.⁴⁵⁹ No attempt was subsequently made to have this confirmed at the curia, as Matthew Forester did with the vicarage of Monkton, presumably reflecting the security of his possession. Michael Chisholm was indeed still vicar at the Reformation and for many years thereafter.⁴⁶⁰

All the examples quoted so far to illustrate the process by which families were able to transfer parochial benefices from one member of the family to another and, at least for a short time, to treat the church as the property of the family, have shared one characteristic: this is that the process has been carried out without opposition from other claimants at least at the time of the transfer. There were, however, several occasions when there was some opposition to the resignation.

The Kennedy family managed to maintain possession of the perpetual vicarage of Penpont in the diocese of Glasgow by three members of the family despite an admittedly shadowy challenge to this. In September 1539, Thomas Kennedy, a clerk of the diocese, who was about 20 years old, asked the pope to grant him a new provision to the benefice, having already obtained it by ordinary authority on the resignation of James Kennedy. He described himself as of noble birth and related to an earl, which implies a connection with the Kennedy earls of Cassilis. In this case, there was no mention of the reservation of fruits to James.⁴⁶¹ Matters were not so straightforward, however; early the following year, William Gordon, prebendary of St. Mary on the Rock, said that he had obtained it by apostolic authority on its vacancy by the resignation of James Kennedy, but that certain people did not accept this. He too therefore also asked for a new provision to the

⁴⁵⁹ RSS,iii,no.2490.

⁴⁶⁰ Haws, Scottish Parish Clergy, 33.

⁴⁶¹ 2 Sept. (Reg. Supp. 2342, f.107^v-108).

vicarage because collation had devolved to the apostolic see.⁴⁶² How strong this challenge really was is not clear. It seems unlikely that Thomas Kennedy's possession was much disturbed, for he retained it until his death in 1547, when his brother, Quintin Kennedy, was given royal presentation to the vicarage on 4 October.⁴⁶³ The Kennedy hold was not to last much longer, for Quintin resigned the vicarage less than two years later, and Sir John Scott, described as a canon, was also given royal presentation in February 1549.⁴⁶⁴ It seems highly probable that he was a canon of Holywood, to which the parsonage was annexed and from amongst whose canons the vicarage was normally served.⁴⁶⁵

A second case where there is a record of opposition to a peaceful transfer between the members of a family concerns the perpetual vicarage of Dumfries. Matthew Stewart resigned this benefice on 5 October 1542 in favour of his sister's son, William Wyzet, who was about 24; William then asked for provision along with a reservation of the fruits to Matthew and the right of regress, together with the annates of the first year after his death for his executors.⁴⁶⁶ The first sign of opposition appeared one month later, when William sought prorogation of the provision for 6 months in order to expedite the letters. This may have simply been a procedural matter, but it may also have been caused by some more substantial difficulties. Two years later, the latter was certainly the case: William Wyzet asked again for prorogation of the provision for a year beyond the three allowed in

⁴⁶² 2 Jan.1540 (Reg. Supp. 2360, f.18-19).

⁴⁶³ RSS,iii,no.2478. The see was vacant at the time, although the presentation does not state this, referring simply to the vicar-general.

⁴⁶⁴ 8 Feb.(RSS,iv,no.106).

⁴⁶⁵ Cowan, Parishes, 163.

⁴⁶⁶ Reg. Supp. 2370, f.160-160^v.

order to oust an intruder who was detaining it illegally, identified only in the petition as N.⁴⁶⁷ The outcome of this intrusion is uncertain, for the next reference to the vicarage is when John Bryce held it in 1552.⁴⁶⁸ The weight of probability lies with the benefice remaining in Wynzet's hands until Bryce became vicar.

The Tulloch family experienced considerable opposition to their efforts to maintain their possession of the perpetual vicarage of Ruthven in the diocese of Moray. In 1537, Nicholas Tulloch senior resigned the benefice in the hands of the pope and, together with his sixteen year-old nephew, also named Nicholas, petitioned for Nicholas junior to be given provision *in commendam* to the vicarage, while Nicholas senior would retain all the fruits and returns for life along with the right of regress.⁴⁶⁹ A year later, however, the opposition to the Tulloch's plan to transfer possession of the vicarage within the family began. In November 1538, George Balfour, a chaplain, was given royal presentation to the benefice, which was said to be vacant by Nicholas Tulloch's death, the see of Moray now being vacant.⁴⁷⁰ In the spring of 1539, Nicholas junior himself asked to be given papal provision because of his uncle's death, describing himself as a clerk of Moray diocese; interestingly the petition is in the form of a simple *per obitum* supplication rather than relying in any way upon the earlier petition of 1537.⁴⁷¹ In May 1540, Henry Balfour made another attempt to oust Tulloch by seeking a new provision, saying that he had obtained the

⁴⁶⁷ 4 Nov.1542 (Reg. Supp. 2480, f.50); 16 Aug.1544 (Reg. Supp. 2519, f.1-1^v).

⁴⁶⁸ Haws, Scottish Parish Clergy, 67.

⁴⁶⁹ 23 Nov.(Reg. Supp. 2299, f.21-22); Reservation of fruits and the right of regress (Reg. Lat. 1686, f.197-198^v).

⁴⁷⁰ 17 Nov.(RSS,ii,no.2770).

⁴⁷¹ 30 April 1539 (Reg. Supp. 2352, f.257-257^v).

vicarage earlier by ordinary authority but that some doubted the validity of this provision.⁴⁷² Litigation must have dragged on till 1548: in June 1547 and then in October 1548, first Henry and then Nicholas asked for commissions by brief to determine the dispute in their favour. The case had been heard in Scotland in front of Marco Grimani, the papal legate to the country in 1543 and 1544.⁴⁷³ Balfour may be identified with the clerk who became one of David Beaton's servants following a period in the royal household.⁴⁷⁴ Despite the possibility that Balfour had indeed been provided by ordinary authority, the succession arranged by Nicholas Tulloch senior stood firm, and his nephew was still in possession of the vicarage in 1566.⁴⁷⁵

The perpetual vicarage of Largo in the East Neuk of Fife remained in the hands of the Wood family despite an attempt to challenge its possession. The pattern of this case differs in several ways from those already examined. On 8 May 1536, Alexander Wood asked to be given a new provision to the benefice because, although he had obtained it by apostolic or other authority, some people did not accept this.⁴⁷⁶ Three years later, a different vicar, George Mydlar, was named as resigning the benefice in the hands of the pope, and John Wood, describing himself as being in his seventeenth year, successfully asked that he be provided.⁴⁷⁷ Whether Mydlar had actually ousted Alexander Wood and this represented an attempt by the Woods to regain possession

⁴⁷² 3 May (Reg. Supp. 2377, f.67-68).

⁴⁷³ 25 June 1547 (Reg. Supp. 2609, f.12-12^v); brief registered 30 July (Brev. Lat. 45, f.536^v); 10 Oct.1548 (Reg. Supp. 2643, f.230).

⁴⁷⁴ Sanderson, Cardinal of Scotland, 135,156.

⁴⁷⁵ Haws, Scottish Parish Clergy, 212.

⁴⁷⁶ Reg. Supp. 2210, f.55.

⁴⁷⁷ 25 Sept.1539 (Reg. Supp. 2347, f.203-203^v); Provision (Reg. Lat. 1703, f.285^v-286^v).

of the vicarage is not clear. In August 1543, John Wood again asked the pope for provision, saying that it was vacant by resignation of Alexander Wood in hands of the pope. The petition also asked that Alexander be granted an annual pension of £40 Scots on the fruits for life.⁴⁷⁸ In fact, whatever the intention of these petitions, an Alexander Wood was still in possession of the vicarage at the Reformation and did not demit the benefice until 1576.⁴⁷⁹ It is possible, given the length of time involved, that this Alexander was a successor of both the Woods who are discussed here: whether this is the case or the original vicar actually retained possession throughout the whole period, what is certain is that the benefice remained in the hands of the family.

The picture presented by these records remains one of relatively little opposition to families using these devices to maintain a hold on parish churches and, in those cases where opposition has been traced, there is no firm evidence that it was successful. The impression given is both of the strength of the procedure itself and, on the whole, of families once they had obtained hold on a benefice. The scope for ousting holders who had obtained possession by this means was relatively small. At the same time, the examples of the Cunninghams with the vicarage of Stevenston and the Learmonth possession of Lasswade, illustrate the reality that the holding of parishes almost as heritable property did not always, indeed probably very rarely, constitute a really permanent arrangement. In some of the cases already discussed, it is clear that the earlier holder was the first from the family. For example, Alexander Spittal who was succeeded as vicar of Kinnethmont by James Spittal, was the first of the family to hold it, having obtained the benefice sometime after 1535, when Mr. Duncan Audry was vicar.⁴⁸⁰

⁴⁷⁸ 26 Aug.(Reg. Supp. 2489, f.262v).

⁴⁷⁹ Haws, Scottish Parish Clergy, 155.

⁴⁸⁰ Haws, Scottish Parish Clergy, 141.

It seems highly probable too that the norm was for no more than two, and only very rarely indeed more than three, members of a family to hold the same benefice in succession at this level. In both the holding of benefices within families and the subsequent appointment of those outside these families, those processes share characteristics with other aspects of the process of secularization of church property prior to the Reformation.

Since families achieved this kind of success in securing the possession of parochial benefices at least for a substantial period by use of resignation in favour of each other and similar devices, it is not surprising that they were also attractive to other petitioners for these benefices. As with families, there are many examples of this during the 1530s and 1540s, and the pattern of these follows to a large extent that already seen, in that in some cases the fruits remained reserved to the original holder of the benefice, and in others this was not so. The most noticeable difference is that there are several instances where an attempt to use the device was unsuccessful, and also where the original holder did eventually obtain regress for one reason or another. It nevertheless remains true that, in most cases, the attempt to secure the succession by the use of a resignation before the existing holder had died was generally successful.

One example of this, if a particularly complicated one, can be found with the perpetual vicarage of Tarves in Aberdeen diocese. This had been held since 1534 by Henry Lumsden, who asked for it to be

united with the parsonage of Kirkforthar in 1539.⁴⁸¹ The following year, however, Henry resigned the vicarage as part of a deal with Alexander Galloway, who held the prebend of Kinkell in Aberdeen cathedral. This was a complex exchange which also involved the parsonage of Kirkforthar. The pope was asked to provide Alexander Ogilvy, the eighteen year-old son of Walter Ogilvy of Dunlugus, to the vicarage of Tarves. Henry was however to retain all the fruits of the benefice and the right of regress, and was also to obtain provision to the prebend of Kinkell.⁴⁸² At the same time, another son of Walter Ogilvy was to obtain the parsonage of Kirkforthar, which Henry Lumsden had resigned at the same time.⁴⁸³ On 9 August 1541, Alexander Ogilvy asked for correction of the fruits, and it is clear that the transaction was successful because he was in possession probably until his death in 1594.⁴⁸⁴

A rather more straightforward example can be seen in the passing of the perpetual vicarage of Stirling from Robert Wemyss to William Thomson in 1540. Wemyss resigned the benefice in the hands of the pope on 28 March, when he and Thomson successfully asked that the pope should provide William, then the pensionary vicar of Ancrum, to the vicarage; Robert was to retain the fruits, houses and buildings belonging to the benefice for life and the right of regress if William died or resigned, while his executors were to have the annates or half-fruits of the first year after his death. He was also to retain the more

⁴⁸¹ Lumsden was presented to the vicarage on 10 June 1534 (Arb.Lib., 549); Request for the uniting of the two benefices (Reg. Supp. 2327, f.1-1^v)

⁴⁸² 21 Mar.1540 (Reg. Supp. 2396, f.159-161^v).

⁴⁸³ The precept of induction to the Bishop of Caserta, the abbot of Lindores and the precentor of Moray is printed in Aberdeen-Banff Coll., 335-6).

⁴⁸⁴ Reg. Supp. 2427, f.293^v-294^v; Haws, Scottish Parish Clergy, 233.

doubtful gift of the defence of a case against the abbot and convent of Cambuskenneth about the teinds of salmon on the Forth.⁴⁸⁵ Thomson was at the Roman curia two years later when he asked not to be compelled to reside for that reason.⁴⁸⁶ How secure he felt in his possession is not clear for, in July 1544, he asked for a new provision to the vicarage saying that, although he had received it by apostolic authority, some doubted the validity of this.⁴⁸⁷ In fact, he only held it until his death in November 1547. By this time, Robert Wemyss was probably also dead because there was no mention of his right of regress following this, and it was Robert Auchmowty who was given royal presentation to the vicarage, despite Thomson's death in a reserved month, which led to two unsuccessful interventions from Rome.⁴⁸⁸

James Forester who obtained the perpetual vicarage of Carmunnock in the diocese of Glasgow and who also died in 1547, held the benefice for slightly longer, the resignation of his predecessor having taken place in 1537. Two years earlier, in a petition characteristic of the group of Scots at Rome, David Bonar had asked that he be provided to the vicarage, claiming that it was vacant by the death of James Knox or *certo modo*.⁴⁸⁹ James was, however, very much alive and, in September 1537, he resigned the benefice in the pope's hands, saying that he had retained it despite molestation. He then petitioned, along with James Forester, that the pope should give Forester provision to the vicarage, while reserving the fruits, the manse

⁴⁸⁵ Reg. Supp. 2374, f.262-263^v; Provision of Thomson (Reg. Lat. 1710, f.281^v-283^v; Reservation of fruits and regress (Reg. Lat. 1710, f.283^v-288^v).

⁴⁸⁶ 24 Nov.1542 (Reg. Supp. 2472, f.225).

⁴⁸⁷ 4 July (Reg. Supp. 2525, f.102^v).

⁴⁸⁸ 1 Jan.1548 (RSS,iii,no.2578); John Axelius on 2 Dec.(Reg. Supp. 2623, f.281^v-282); James Thornton on 5 Dec.(Reg. Supp. 2628, f.176^v-177).

⁴⁸⁹ 21 July 1535 (Reg. Supp. 2181, f.172^v).

and the glebe to him for life along with the right of regress, and these requests were granted.⁴⁹⁰ Forester, who was also vicar of Rutherglen and of Monkton, maintained possession of the benefice until his death sometime before 22 September 1547, when Archibald Hamilton was given the vicarage by royal presentation.⁴⁹¹

The transfer of the perpetual vicarage of Kilbirnie between Roland Blacader and James Scott was similarly straightforward. Blacader resigned the benefice on 23 November 1537, when he and Scott, provost of the collegiate church of Corstorphine, asked the pope to provide James to the vicarage, while at the same time reserving all the fruits to Roland for life. In another slight variation from the "standard" procedure, there was no request for the right of regress in this instance.⁴⁹² The absence of this feature may have been for a variety of causes: one possible reason is that, if he is to be identified with Roland Blacader who was the subdean of Glasgow, then he would be relatively elderly by this time, having been appointed to that post by 1503.⁴⁹³ These records do not however confirm this identification or otherwise. Scott retained the vicarage through the Reformation.⁴⁹⁴

None of these examples of resignations actually uses the phrase *resignatio in favorem* in the petitions, although this was clearly what was taking place. One resignation where this was explicitly stated was concerned with the perpetual vicarage of Kirriemuir. This was perhaps

⁴⁹⁰ 29 Sept.(Reg. Supp. 2264, f.75-76^V); Grant of fruits and regress to Knox.(Reg. Lat. 1692, f.119^V-121).

⁴⁹¹ RSS,iii.no.2446. Hamilton held it for at least ten years (Haws, Scottish Parish Clergy, 37). His appointment presumably reflects the influence of the Hamilton abbots of Paisley to which the parsonage was appropriated (Cowan, Parishes, 27-8)

⁴⁹² Reg. Supp. 2270, f.26^V-27; Provision (Reg. Lat. 1671, f.338-340); Reservation of fruits (Reg. Lat. 1671, f.340^V-341).

⁴⁹³ Fasti, 168.

⁴⁹⁴ Haws, Scottish Parish Clergy, 120.

unusual also in a second respect in that the intended transfer was still able to take place eighteen years after the original resignation. George Flescheour resigned the vicarage in favour of George Clepen in May 1549. They petitioned the pope to provide Clepen to the benefice, and to reserve all the fruits, returns, and houses of the vicarage to Flescheour for life, along with the right of regress if Clepen died or resigned, together with the gift of the annates or half-fruits of the first year after his death to his executors.⁴⁹⁵ In fact, Flescheour remained in full possession of the benefice until 1567; the succession was however established, for Clepen is then found in possession in 1569 and 1571.⁴⁹⁶ This provides an illustration of a point worth noting in connection with all such resignations. Since in nearly all cases, the fruits remained with the original holder of the benefice, it could be quite some time before the new vicar could obtain the financial benefit of his benefice. This was possibly of less significance where the resignations and provisions involved were within a single family, since the intention may have been very much the retention of the benefice and of more significance in other cases where the interests of individuals with no such connections were involved.⁴⁹⁷

There are also a number of occasions when, although a resignation took place and provision was made, no evidence has yet been traced to confirm that the transaction was successfully completed. In May 1542, for example, Andrew Hume, a canon of Jedburgh, resigned the perpetual vicarage of Hounam in Glasgow diocese, in favour of Hugh Curry, and they asked not only for the provision of Curry but also for

⁴⁹⁵ 28 May (Reg. Supp. 2675, f.146^v-147).

⁴⁹⁶ Haws, Scottish Parish Clergy, 153.

⁴⁹⁷ Other examples of successful transfers of this kind can be quoted, such as the passing of the parsonage of St.Madoes from Henry White to Alan Balvaird and the resignation of the vicarage of Innerleithen by John Gifford in favour of David Sinclair.

Hume to be allowed to retain the fruits for life together with the right of regress if the benefice became vacant again, and this was granted.⁴⁹⁸ In the absence of contrary evidence, it is probable that Curry retained possession of the vicarage, although we cannot be sure of this. Another uncertainty is his relationship with Jedburgh, the abbey to which the parsonage was appropriated and whose canons usually served the benefice, as Hume had done. Curry is described simply as a priest or clerk of the diocese and no mention of a link with Jedburgh is made in the supplications.⁴⁹⁹

The outcome of a resignation of the perpetual vicarage of Kilconquhar in St. Andrews diocese is similarly uncertain. William Wawane resigned this benefice on 30 December 1541 in favour of William Chisholm, and together they successfully petitioned the pope to provide Chisholm, then twenty years old, to the vicarage, to reserve for Wawane all the fruits, lands and churches pertaining to the vicarage along with a house "which John Swynton inhabits", excepting a pension of £4 sterling for Chisholm, and also to reserve the right of regress if the benefice should become vacant.⁵⁰⁰ Early the following year, unusually for parochial benefices, they both obliged themselves for the annates.⁵⁰¹ By the time of the Reformation, John Hamilton was in possession; the most likely scenario is that Hamilton succeeded Chisholm at some time between 1541 and 1560.⁵⁰²

⁴⁹⁸ 1 May (Reg. Supp. 2454, f.188^v-189); Provision (Reg. Lat. 1735, f.62^v-63^v). Curry sought prorogation of the provision for six months on 27 September in order to publish the provision. (Reg. Supp. 2469, f.209^v).

⁴⁹⁹ Cowan, Parishes, 83.

⁵⁰⁰ Reg. Supp. 2441, f.174; Provision (Reg. Lat. 1658, f.122-123); Reservation of fruits, etc. (Reg. Lat. 1658, f.123^v-125).

⁵⁰¹ 13 Feb.1536 (PRO 31/9-33/135-6).

⁵⁰² Haws, Scottish Parish Clergy, 123.

The parsonage of Newdosk, an independent parsonage in the patronage of the archbishop of St. Andrews, was the subject of a resignation in the same way. In January 1539, Thomas Boswell resigned this benefice in favour of Adam Kinghorn. Arising from this, they jointly asked for provision to be given to Kinghorn, with the life-rent of the fruits and the right of regress being retained by Boswell, and the annates of the first year after his death being reserved for his executors, and provision was made accordingly.⁵⁰³ By 1558, the parsonage was in the possession of William Chalmer, but Kinghorn may well have been vicar for some time in the intervening period.⁵⁰⁴

These cases described above are representative of several such resignations intended to arrange the succession to parish churches prior to the death of the holder. Too much emphasis should not be placed on the lack of easily-traced evidence for the success or otherwise of the proposals. Matching the evidence from the Vatican records with detailed investigation in local records may enable the outcomes to be established with greater certainty. In the meantime, it is not unreasonable to start from the view that, at least in the majority of cases, the resignations and subsequent provisions were in fact successful.

There are, however, several instances where the evidence shows that the intended succession was not in fact effected, despite provisions being made for that purpose. Although their number is small, it is worth noting their existence, if only because of the success of families, even when their plans met with opposition, in being able to secure the planned succession.

⁵⁰³ 31 Jan. (Reg. Supp. 2338, f.2^V-3); Provision (Reg. Lat. 1697, f.302^V-303^V); Reservation of fruits, etc. (Reg. Lat. 1697, f.303^V-305^V). Boswell may be identified with the rural dean of Haddington (*Fasti*, 321).

⁵⁰⁴ Haws, *Scottish Parish Clergy*, 189.

The attempted resignation of the parsonage of Methil by William Blacader in favour of Robert Swyne in 1542 is one example. This was made in August of that year, when they both asked that provision in *commendam* should be made to Swyne, while the fruits together with the right of regress should be reserved to William along with the gift of the annates or half-fruits of the first year after his death for his executors. This petition was successful.⁵⁰⁵ However, two years later, there began a series of petitions which suggest that Swyne was having difficulty in securing the parsonage. On three occasions, in 1544 and 1545, he asked for prorogation of the provision for six and four months in order to satisfy the commend or to publish the provision, and he similarly felt the need both to correct his age (from 18 to 16) and the fruits.⁵⁰⁶ Whether any of this proved worthwhile is doubtful: Blacader was still described as parson in 1562, and was presumably also in possession of the fruits.⁵⁰⁷ It is interesting to note that, though the parsonage was in the patronage of the archbishop of St.Andrews, there is no evidence of his involvement in this, and this evidence may give some negative support to R.K.Hannay's belief that the use of such resignations in favour was intended to thwart the wishes of patrons. There may, however, be some connection between Blacader and Swyne in the context of this parish because, on 1 February 1536, Blacader feued the kirklands of Methil to George Swyne, so the family was already obtaining some benefit from the lands of the parish.⁵⁰⁸

⁵⁰⁵ 30 Aug.(Reg. Supp. 2470, f.18); Provision (Reg. Lat. 1659, f.147-149); Reservation of fruits and regress (Reg. Lat. 1659, f.145-147).

⁵⁰⁶ 27 Dec.1544 (Reg. Supp. 2542, f.1); 4 May 1545 (Reg. Supp. 2539, f.174^V); 19 May 1545 (Reg. Supp. 2543, f.230^V); 14 Feb.1545 (Reg. Supp. 2543, f.227^V-228).

⁵⁰⁷ Haws, Scottish Parish Clergy, 178.

⁵⁰⁸ RMS,iv,no.1656.

A similar case, though which gives much earlier evidence of lack of success, is that of the pensionary vicarage of Ardrossan, the patronage of which belonged to the archbishop of Glasgow.⁵⁰⁹ Robert Wilkesoun resigned the vicarage in favour of Robert Young in May 1544 and, following a similar petition, provision was made accordingly, together with a papal reservation of the fruits, glebe and manse and the usual right of regress.⁵¹⁰ Only 5 years later, when Alan Porterfield was given royal presentation to the benefice while the see was technically vacant, the vicarage was said to be vacant by the resignation of Robert Wilkesoun; Porterfield retained the benefice until 1568.⁵¹¹

A third benefice which seems to have experienced the same fate is the perpetual vicarage of Tranent in St.Andrews diocese, whose parsonage was appropriated to Holyrood.⁵¹² This displayed what may be a significant difference from the two cases just discussed in that the two people involved in the process do seem to have retained some connection with the vicarage for some time. Stephen Moffat made a resignation of the vicarage in favour of John Ray on 14 May 1544, when the pope was asked both that Ray should be provided to the benefice and that the reservation of fruits and regress in the usual circumstances be made, requests which were duly granted.⁵¹³ John Ray followed this later with a petition for prorogation of the provision for 6 months to give time to publish the provision, and both of them promised

⁵⁰⁹ Cowan, Parishes, 8; Chalmers, Caledonia, vi, 575.

⁵¹⁰ 14 May (Reg. Supp. 2519, f.211^v-212); 31 Oct.1544 (Reg. Supp. 2524, f.183^v); Provision on 8 December (Reg. Lat. 1764, f.245-246^v); reservation of fruits, etc.(Reg. Lat. 1764, f.208^v-210).

⁵¹¹ 1 Feb.1549 (RSS,iv,no.76); Haws, Scottish Parish Clergy, 13).

⁵¹² Cowan, Parishes, 200.

⁵¹³ Reg. Supp. 2519, f.209-210; Provision (Reg. Lat. 1752, f.123-124); Reservation of fruits and regress (Reg. Lat. 1752, f.124^v-125^v).

to pay the annates at the appropriate time.⁵¹⁴ Moffat appears, however, to have outlived Ray, who was said to have held the vicarage at the Reformation but was dead sometime before 24 July 1574. Moffat therefore seems to have successfully obtained regress for, on that date, he was deprived for non-conformity, being described as "pretendit vicar".⁵¹⁵

Although these examples indicate that the system of *resignatio in favorem* did not always secure the succession in the way intended, they certainly do not suggest any substantial failure of the system. They rather illustrate that, for one reason or another, there were occasions when something happened to alter the intended course of events. Presumably on relatively few occasions did the original holder actually obtain regress, as Moffat did after the Reformation; it is even possible that Robert Swyne did hold the vicarage of Methil for some time, and that Blacader also obtained it before 1560 as the result of the regress; only with Ardrossan does it seem likely that Young never actually held the vicarage at all. Indeed, the small number of cases even of this kind suggests that the characteristic of this device was that it was a highly effective process for securing possession, which would explain its evident popularity.

In some previous chapters, there has been some discussion of another device used in resigning a benefice, that of retrocession, where two resignations have followed each other in quick succession, effectively restoring the *status quo*, with the addition that the second person involved retained the right of regress to the benefice. There are at least a few examples of the use of this device with parish churches.

⁵¹⁴ 31 Oct.1544 (Reg. Supp. 2524, f.183^v); 2 Dec. (PRO 31/9-33/165).

⁵¹⁵ Haws, Scottish Parish Clergy, 238.

One benefice where this was applied was the pensionary vicarage of St.Giles in Edinburgh, in the patronage of the provost of the collegiate church.⁵¹⁶ David Young resigned it on 29 April 1542, and James Watson, a priest of Dunkeld diocese, asked to be given provision to the benefice.⁵¹⁷ Only a few days later however, on 5 May, James yielded his right in the vicarage in favour of David, and together they asked the pope to provide David Young, and also to grant James the right of regress if David died or resigned his right in the church, and it was these petitions which were obtained papal approval.⁵¹⁸ All this was clearly successful. David was described as curate in both 1528 and 1551, presumably describing his function rather than his title. It is interesting, although not necessarily significant, that he was succeeded in the vicarage not by Watson, but by Lawrence Tod.⁵¹⁹

The perpetual vicarage of Inverurie was the subject of a similar action. William Cabell senior retained this benefice through a retrocession involving Laurence Young and himself. Initially, Cabell resigned in the hands of the pope and in favour of Young on 27 September 1546, and Laurence asked for papal provision to the vicarage.⁵²⁰ However, Laurence yielded his right in the benefice back immediately and, in bulls of the same day, Cabell was given papal provision, where it was stated that he had resigned in Laurence's favour and that resignation was unfinished; at the same time, Laurence

⁵¹⁶ Cowan, Parishes, 177-8.

⁵¹⁷ Reg. Supp. 2452, f.135^v.

⁵¹⁸ Reg. Supp. 2454, f.99^v-100; Provision for David (Reg. Lat. 1735, f.71^v-72^v); Reservation of regress (Reg. Lat. 1745, f.190-190^v).
David Young asked for prorogation of the provision for 6 months on 27 September (Reg. Supp. 2469, f.209).

⁵¹⁹ Haws, Scottish Parish Clergy, 214.

⁵²⁰ Reg. Supp. 2587, f.181^v.

was given the right of regress in the usual circumstances.⁵²¹ William Cabell continued to hold the vicarage at the Reformation.⁵²²

A third parochial benefice which was treated in this way was the vicarage of Kinglassie in St.Andrews diocese, whose parsonage was annexed to the abbey of Dunfermline, and which involved Thomas Boswell and Adam Kingorne, both of whom had earlier been concerned with a resignation of the parsonage of Newdosk. There is a clear link with the patron in this instance for Kingorne was the camerarius of Dunfermline Abbey.⁵²³ On 25 September 1541, Boswell resigned the vicarage, whereupon Kingorne asked for provision.⁵²⁴ Less than two months later, however, Kingorne himself resigned in favour of Boswell, saying that he had previously obtained the benefice by Boswell's own resignation, and asking for himself only the right of access in the event of Boswell dying or resigning the vicarage, while Thomas Boswell asked to be provided to the benefice.⁵²⁵ Whereas in the two examples just discussed, the retrocession seems to have determined who held the benefice, the reverse seems to be the case with Kinglassie. It was Kingorne who seems to have been in possession in July 1547, when he asked for correction of the fruits, and for a provision which recorded

⁵²¹ Provision of Cabell (Reg. Lat. 1780, f.346-348); Reservation of regress to Young (Reg. Lat. 1780, f.338-341); a supplication asking for the provision of Cabell and the reservation of regress to Young, but dated 27 September 1547, exists in a cancelled form in the Register (Reg. Supp. 2603, f.96^V-97). This appears to be a record of the petition to match the two bulls, but with an erroneous date.

⁵²² Haws, Scottish Parish Clergy, 115.

⁵²³ Cowan, Parishes, 112; RMS,iii,no.2941.

⁵²⁴ Reg. Supp. 2432, f.60^V-62.

⁵²⁵ 7 Nov.1541 (Reg. Supp. 2452, f.299); Provision to Boswell (Reg. Lat. 1735, f.60^V-62); Reservation of regress to Kingorne (Reg. Lat. 1735, f.64-65^V). Boswell asked for prorogation of the provision for 6 months on 27 September 1542 in order to publish the resignation in Scotland (Reg. Supp.2469, f.205-205^V).

his defect of birth, and it was also he who held the vicarage at the Reformation.⁵²⁶

It is noticeable that none of these retrocessions involved the transfer of fruits, which suggests that in most cases, the function of the process was more to establish more strongly the possession of the original holder of the benefice rather than to ensure a particular line of succession. This omission of any pension of or on the fruits was not, however, universal. When John Sinclair and George Nairn undertook a retrocession of the perpetual vicarage of Alford in Aberdeen diocese, for example, there was at least a small pension paid. John Sinclair resigned this benefice and George Nairn asked for provision from the pope on 27 July 1539.⁵²⁷ Two days later, the process was reversed: Nairn resigned and they made successful petition together that Sinclair should be provided to the vicarage, while Nairn should receive an annual pension of 20 merks Scots plus the right of regress if the pension was not paid, by which it seems that there was no expectation, or perhaps no intention, of succession coming to John Nairn in the future.⁵²⁸ The outcome is not confirmed, but it seems highly likely that Sinclair retained the vicarage for at least some time.

Just as the absence of financial considerations was not a universal feature of this procedure, neither was it always the case that the process took place within a very short space of time. The treatment of the perpetual vicarage of Cleish by John Anderson and William Walker provides a variation on this pattern. Anderson yielded the benefice in the hands of the pope and in favour of Walker on 20 August 1544, and

⁵²⁶ 15 July (Reg. Supp. 2609, f.144); Haws, Scottish Parish Clergy, 138.

⁵²⁷ Reg. Supp. 2341, f.74-74^v.

⁵²⁸ 29 July (Reg. Supp. 2341, f.73-74); Provision to Sinclair (Reg. Lat. 1658, f.314-316); Reservation of pension and regress to Nairn (Reg. Supp. 1658, f.312-314^v).

they were successful in their request that provision should be given to William, while John should have an annual pension of £10 Scots along with the right of regress if the pension was not paid.⁵²⁹ It was three years later, in September 1547, before Walker resigned and John Anderson asked to be given provision to the vicarage again.⁵³⁰ The shape of this process is different from the other retrocessions discussed above, in that for example the bulls refer to the first resignation rather than to the last, and some motivation other than that which drove the "standard" procedure may lie behind this particular case. Nevertheless, the outcome was the same, in that two holders of the benefice reversed possession, and Anderson retained it until the Reformation.⁵³¹

The substantial mass of material in the registers of supplications and bulls relating to the parish churches in Scotland provide a rich vein to be quarried for a variety of purposes. With regard to patronage against the background of the various rights which determined benefice appointments, the pattern which emerges is, in broad outline and with some exceptions, not dissimilar to that seen in the cathedral prebends.

Amongst lay patrons, the crown made extensive use of its powers of direct patronage and, more significantly, those relating to presentation during vacancies in episcopal sees, with the result that a not insignificant number of parish churches were filled without reference to Rome at all. Some of these may, of course, have fallen

⁵²⁹ Reg. Supp.2524, f.194; Provision to Walker (Reg. Lat. 1753, f.280-281); Reservation of pension and regress to Anderson (Reg. Lat. 1752, f.356-358).

⁵³⁰ 2 Sept. (Reg. Supp. 2618, f.91); PRO 31/9-33/217.

⁵³¹ Haws, Scottish Parish Clergy, 41.

outside the net of papal reservation if, for example, they became vacant in non-reserved months. Many of the appointments were no doubt those of local clerics, as was certainly the case with those in the Western Isles, and few, if any, of these should be seen as in any way personal appointments. The number of royal interventions in parochial appointments beyond those vacancies which properly belonged with the crown is, however, very small indeed, and this may be taken as an indication of a relative lack of interest in benefices of lesser significance which would be very understandable.

Unlike the cathedral prebends, there is quite extensive evidence for the exercise of patronage by other lay patrons in various parts of the country. It is clear that the system of reservation made it desirable, and even necessary, for these patrons to devote financial resources to ensuring that their nominees, often members of their families, had possession of parish churches secured by papal provision, or at least registered petitions.

Amongst ecclesiastical patrons, the most obvious gap lies in the lack of firm evidence of prebendaries making appointments to the (usually) vicarages which remained to serve the cure of souls. The supplications and bulls, however, provide several examples of the exercise of patronage by bishops, also in some cases to members of their families, and this also contrasts, rather surprisingly, with the picture available for the cathedral prebends, where such cases are fewer. The religious houses, to which many of the parish churches were appropriated, also made extensive use of their powers of patronage: this included the appointment of members of the families of the abbots and others known to be associated with the abbeys, and of canons and even monks to serve, at least nominally, churches annexed to the religious house. The pope's own authority, as the highest ecclesiastical patron of all, was available by delegation to David Beaton for a time as the result

of the indults granted to him and, although several appointments were made directly within Scotland, the Vatican records provide some small further evidence of the use of these powers.

All of these patrons found that they could not always exercise their authority unchallenged, and there is extensive evidence of disputes arising from conflicting rights being taken to Rome. While the crown was able to use its own authority to withstand such challenges successfully, both other lay and ecclesiastical patrons had more mixed fortunes. The overall picture suggested, however, is that these patrons were, with some exceptions, reasonably successful in placing their own nominees, despite the scale of the opposition. The most substantial source of this was the group of Scottish procurators at Rome, the scale of whose activities in relation to parochial benefices was very extensive indeed. Their success was, however, more circumscribed: they did indeed obtain some benefices for themselves or members of their families; they were also able to force successful litigants to buy them off with a pension; in many cases, nevertheless, they simply failed in their challenges, reflecting perhaps a tendency to challenge for some churches with little expectation of success, and the strength of at least some local possession within Scotland.

This examination of the parish churches has also indicated the considerable scale of the use of resignations by benefice-holders and seekers. Much of this was clearly intended to secure possession of such churches within particular families, and achieved this aim although, as has been seen, this rarely proved to last for more than two or three members of the family. It was also extensively used however by agreement between individuals who were not related. The process of retrocession seen with benefices further up the church hierarchy, was also in evidence apparently in order more to establish the possession of an original possessor than to secure succession for a future one,

although perhaps not to the extent which might have been expected given the number of parish churches within Scotland relative to the number of prebends.

The rules of reservation and the rights of local patrons were also in potential competition with regard to another group of benefices which stand in a sense rather outside these examined so far. The headships and prebends in the collegiate churches constitute a special category on their own in various ways, and it is to these that we now turn to consider whether the Vatican records suggest that they follow, or diverge from, the same general pattern as those benefices already considered.

CHAPTER 7

THE COLLEGIATE CHURCHES

The collegiate churches in Scotland stand rather apart from the other churches discussed so far. They were a comparatively late development within the church: apart from the early foundation of St. Mary on the Rock at St. Andrews, founded in rather special circumstances,¹ all the foundations date from the mid-fourteenth century onwards. It was also "markedly a layman's movement".² The reasonable expectation might be that the relatively recent foundation of many of the churches in this form and the erection of their prebends - in many cases even more recent - would lead to stronger local control by patrons of whatever kind. In addition, it might also be expected that the nature of the links between the patrons and their churches might also produce a reduction in the scale of references of such appointments to Rome.

The question of patronage to these churches and their prebends requires some discussion. Easson states crisply that "the patronage of the provostship, as of the prebends, lay with the founder and his heirs or, in the burghs, with the bailies and council."³ Although this was probably true in many cases, it needs some explanation and probably refinement. It was not at all uncommon for further prebends to be added later to the church, by different individuals who themselves

¹ For which, see G.W.S.Barrow, The Kingdom of the Scots (London,1973), 212-232.

² Watt, D.E.R."Collegiate Churches",in Historical Atlas of Scotland, c.400-c.1600, (St.Andrews,1973),ed. P.McNeill and R. Nicholson, 79.

³ D.E.Easson "The collegiate churches in Scotland", RSCHS, vi (1938), 199.

retained the patronage of these particular prebends. Even at foundation, presentation to prebends could be distributed amongst several patrons. This occurred at the collegiate church of Tain, founded by Thomas Hay, bishop of Ross in 1487 at the instance of James III: while the provostry was in episcopal patronage, two prebends were at royal presentation, five at the presentation of the earl of Ross, the deacons were to be presented by two local lairds, the sacrist by the provost, and the choristers by three other local laymen.⁴ This is not dissimilar to the situation with perpetual chantries in England, where, as Wood-Legh has indicated, patronage could vary: in addition to the continuing right of the founder and his heirs, patronage could pass with a transfer of ownership of the land, and the parson or warden could also have a say in an appointment.⁵ It is against this background that appointments to these benefices and, in particular, the role of the papacy in such appointments must be examined.

I

While both the headships and the prebends of these colleges were non-elective, it is appropriate to examine them separately in view of potential differences in the treatment of appointments. Several of the collegiate churches were founded by the crown itself and the patronage of their headships thus lay in royal hands. The deanery of Restalrig, one of these churches, was used to provide an income for one of James V's legal officers, John Sinclair, who was one of the lords of Session and later Lord President.⁶ On 8 July 1542, the King named Sinclair to the vacancy on its voidance by the death of William Gibson the previous

⁴ J.Durkan, "The sanctuary and college of Tain", *IR*, xiii (1962),150-1.

⁵ K.L.Wood-Legh, Perpetual chantries in Britain (Cambridge,1965), 65-7.

⁶ Midlothian Chrs.,lii-liii.

day, commending his upright character, his birth (he was the son of Sir Oliver Sinclair of Roslin) and his work on the supreme court as qualifications for his appointment.⁷ The following month, Sinclair and the King successfully petitioned the pope to provide him to the benefice.⁸ He retained the benefice at least until 1547 and possibly also kept the fruits until 1566.⁹

The church of Trinity in Edinburgh was also in royal patronage through its foundation by Mary of Gueldres.¹⁰ During this period, the provostship was granted to a minor member of James V's court. In July 1540, George Clapperton, the king's master almoner, was presented to the benefice when it became vacant following the resignation of Robert Erskine.¹¹ He retained possession of the office until 1566.¹² Clapperton's predecessors in the headship of this church were drawn from the family of another member of James V's court, Sir Thomas Erskine, the royal secretary. Thomas Erskine, son of the secretary, obtained it by royal presentation in early 1539 when the previous

⁷ James V Letters, 440.

⁸ 27 Aug.1542 (Reg.Supp.2463,f.139-139v); Provision (Reg.Vat.1574,f.179-180v). Sinclair obliged for the annates on 22 September (PRO 31/9-33/141-2. He also sought correction of the amount of the fruits on 12 September (Reg.Supp.2467,f.218-218v).

⁹ Fasti, 370; see also below, p 356.

¹⁰ Cowan and Easson, Medieval Religious Houses Scotland, 221.

¹¹ 28 July 1540 (RSS,ii,no.3594); Clapperton appears as master almoner in e.g. ER,xvii,165, TA,vii,125,332.

¹² Fasti, 359.

provost, William Cunningham, was promoted to the bishopric of Argyll.¹³ However, he quickly resigned it when nominated for the abbacy of Dryburgh, to be succeeded later that same year by the son of John Erskine of Dun, Thomas's cousin. Robert Erskine, parson of Glenbervie, was given presentation by James V on 5 September 1539 and collation to the church a few days later.¹⁴ Robert Erskine also held the provostship for only a short time, until he too resigned on obtaining a more substantial benefice, the deanery of Aberdeen.¹⁵

The family of James Leirmonth, the king's master of works, were among those who were appointed to the headships of collegiate churches in royal patronage. On 30 July 1540, the king presented James Leirmonth, the thirteen year-old son of the master of works, as provost of St.Mary on the Rock at St.Andrews, following the death of the previous holder, James Kincragy.¹⁶ As with the deanery of Restalrig, Kincragy's death took place in July; again, however, Leirmonth felt it necessary two months later to seek provision to the provostship in *commendam* until his eighteenth year and fully thereafter, when he stated that some doubted the validity of his possession.¹⁷ Despite a report of his death in December 1554, Leirmonth held the office until his death in 1578.¹⁸

¹³ 17 Feb.1539 (RSS,ii,no.2892); Midlothian Chrs.,cvii-cviii.

¹⁴ RSS,ii,no.3594; 13 Sept. (Spalding Club Misc.(1849),iv,31-2); Midlothian Chrs., xviii-cix).

¹⁵ 1 Aug.1540 (Fasti, 9).

¹⁶ RSS,ii,no.3598; Leirmonth appears as master of works in e.g. ER,xvii,164,279).

¹⁷ 21 Sept.1540 (Reg.Supp.2391,f.140v-141).

¹⁸ Fasti, 372-3.

The crown also obtained rights of patronage to collegiate churches arising from the forfeiture of certain families at various times. This was the case, for example, with the church of Crichton: on the forfeiture in 1484 of the Crichtons, who had founded the collegiate church, their lands had been acquired by the Hepburn family. Patrick Hepburn, earl of Bothwell, was reported to have gone to England and was suspected of treachery, and presentation was therefore said to lie with the crown. As a result, John Johnston was presented to the provostry in September 1549, following the death of William Justice, the previous holder.¹⁹ Hepburn did make his own presentation of George Ramsay on Justice's death but, presumably because of Hepburn's exile, the ordinary refused to institute him. How long or successfully Johnston retained the benefice is not clear. What is certain is that in 1553, the Hepburns were able to re-establish their hold on the church, and Ramsay resigned the provostship in favour of James Hepburn.²⁰

The provostship of Lincluden, founded by the lord of Galloway, similarly came into royal patronage as a result of the forfeiture of the Douglas family in 1455.²¹ It was also held in succession by two important royal servants, William Stewart, treasurer of Scotland, and George Marschell, deputy treasurer.²² The transfer was part of a complicated three-cornered exchange involving the two men and Stewart's son, John, who was to obtain the treasurership of Aberdeen.

¹⁹ 3 Sept. (RSS,iv,no.414). There is some doubt as to whether Bothwell had actually gone to England, but he was certainly in close touch with the English government. (Mary of Lorraine Correspondence, 320-1).

²⁰ Fasti, 350.

²¹ Cowan and Easson, Medieval Religious Houses. Scotland, 223; R.G.Nicholson, Scotland: the later middle ages, 373.

²² For Stewart, see Handbook of British Chronology, (3rd ed.),188; Marschell appears as deputy treasurer e.g. TA,vi,316, RMS,iii,no.1629).

William Stewart had first become provost in 1529, the year before he was appointed royal treasurer.²³ On 30 May 1535, he asked for a new provision, stating that he had received apostolic dispensation to retain the benefice for life when he had been promoted to the bishopric of Aberdeen in 1532, but still doubted the validity of his possession.²⁴ Two months later, he endeavoured to secure the succession within his family, when his son, John, was presented for the provostship by the crown to the pope in expectation of his father's resignation in the hands of the pope, while William was to retain all the fruits and the right of regress if John died or resigned.²⁵ This was not successful, however: in August of the following year, it was George Marschell who was said to be in expectation of William's resignation in a presentation to the pope, when the fruits and the right of regress were again reserved to William.²⁶ On 17 October, the whole transfer was formalized at the curia, when William Stewart resigned the provostship to the pope, and he and George Marschell asked that Marschell should be given provision. A pension of £100 Scots to John Duncanson, who had held the benefice from 1512 for some years and had clearly only given it up in return for this pension, was continued. Most significantly, William Stewart was to continue to hold all the fruits, teinds, rights of the office, together with the rule and administration of the church, along with the right of regress in the event of the provostry falling vacant.²⁷

²³ Fasti, 365.

²⁴ Reg.Supp.2175,f.98v-99.

²⁵ 27 July (RSS,ii,no.1742).

²⁶ 12 Aug.1536 (RSS,ii,no.2118). On 8 October, Marschell sought provision himself along with correction of the fruits (Reg.Supp.2231,f.130-130v).

²⁷ Reg.Supp.2228,f.22v-23; Provision of Marschell (Reg.Vat.1456,f.122v-125); Reservation of fruits and regress to Stewart (Reg.Lat.1662,f.261-264v).

At the same time, completing the triangle of changes, John Stewart was provided to the treasurership of Aberdeen, which Marschell had previously held, reserving the fruits and administration of that dignity to Marschell in the same manner as William Stewart was doing with the provostship. Both Marschell and John Stewart were therefore able to expect the succession to their respective benefices in due course, and this presumably explains the willingness of the Stewarts not to be concerned at the failure of their earlier plan that John Stewart should succeed his father as provost of Lincluden. On 22 December, Marschell asked for a new provision, and the following day, Marschell and William Stewart both obliged for the annates respectively of the provostship and the reservation of the fruits.²⁸ This tripartite arrangement probably lasted till William Stewart's death on 10 April 1545, when Marschell probably succeeded fully to the headship of Lincluden and presumably yielded the fruits of the treasurership of Aberdeen to John Stewart at the same time. Assuming this to be so, he did not have long to enjoy the new situation, for he himself was dead by 16 September 1547, when Robert Douglas was given crown presentation.²⁹ It is clear that, for almost 20 years, the office provided a means of support for two of the crown's financial officers.

There is one case of opposition to royal presentation which reached the curia, dealing with the provostry of Tain. It is indeed unclear why presentations by the crown were made at all. The office was in the patronage of the bishop of Ross³⁰, and there is no suggestion in the two royal presentations in 1541 and 1542 that the crown was acting *sede vacante*; indeed, Bishop Cairncross was named as

²⁸ 23 Dec. (PRO 31/9-33/48-49).

²⁹ RSS,iii,no.2433.

³⁰ Durkan, "Sanctuary and college of Tain", 151.

the collator to the office. The case is of interest also because it illustrates one of the very rare interventions by the Scottish procurators at Rome in appointments to benefices in collegiate churches. It appears possible that two separate, though not totally disconnected, disputes were taking place within Scotland and at Rome. Donald Munro was the only litigant who seems to have retained some semi-permanent hold on the provostship during most of the period. He had obtained it by 1534 and was still provost as late as 1546, when he witnessed a notarial instrument on 14 September.³¹ In early 1541, however, the office was said to be vacant by the resignation or death of Munro, and George Ogilvy was presented by the crown, when the provostship was said to be at crown presentation.³² Little more than a year later, both of these possible holders were ignored when Hugh Gray was given royal presentation, on the grounds this time that it was vacant by the death of Magnus Vaus.³³ The first mention of the dispute at Rome came in the autumn of 1542, when Munro's death in August of that year was given by John Thornton as the cause of the vacancy when he asked for provision to the provostship.³⁴ Hugh Gray also claimed that Munro had died when he also sought provision to the office in January 1543, stating that it had been vacant so long that presentation had devolved to the apostolic see.³⁵ His challenge was soon over, however, for in April of the following year, he disappeared from among the litigants, ceding his right in the benefice to the pope in favour of John

³¹ Fasti, 374; Munro Writs, no.57.

³² 22 Feb.1541 (RSS,ii,no.3870).

³³ 17 Aug.1542 (RSS,ii,no.4841). Vaus had previously occurred as provost on 1 May 1542 (Fraser, Grant,iii,88, quoted in Fasti,374).

³⁴ 27 Sept.1542 (Reg.Supp.2470,f.64-64v), repeated 4 October (Reg.Supp.2470,f.221v-222).

³⁵ 15 Jan.1543 (Reg.Supp.2486,f.17).

Stevenson who in turn joined those disputing right in the benefice.³⁶ For the next six years, the battle seems to have been fought at Rome, some of the locally-based candidates being forced to conduct their campaign on the procurators' ground. Thornton had himself re-appeared as provost in March 1544³⁷, but he had to take action to protect his claims a year later: on 10 March 1545, he asked for prorogation of his provision for a year beyond the three years allowed in order to bring N.P., who had intruded himself into the benefice and was illegally detaining it, to justice within that time.³⁸ At a further interval of a year, Thornton's nephew, James Thornton also sought provision to the benefice, claiming that it was vacant by John Thornton's resignation or Magnus's Vaus's death.³⁹ Two years later, he clearly felt as insecure as his uncle had been in 1545, for he asked for a new provision to the provostship.⁴⁰ It is difficult to know whether Thornton or his nephew ever secured any revenue from the office, although the appearance of John Thornton as provost in a local charter in March 1544 and the notice of his assent as provost to a transfer of lands in Dunskeath to Nicholas Ross, a chaplain in the collegiate church, at the same time, both suggest that his claim was at least recognized in Scotland.⁴¹ Clearly, his claim was a more serious one than is suggested by an examination simply of the evidence of Scottish records. However, Munro apparently having disappeared from the scene sometime after September 1546,

³⁶ 27 April 1544 (Reg.Supp.2513,f.221).

³⁷ 24 Mar.1544 (Fasti,374).

³⁸ Reg.Supp.2542,f.257v. Request repeated on 16 August (Reg.Supp.2555,f.120v).

³⁹ 226 March 1546 (Reg.Supp.2581,f.11v-12).

⁴⁰ 10 Nov.1548 (Reg.Supp.2648,f.141v-142).

⁴¹ Fasti, 374; RSS,iii,no.676; OPS,ii.2,422.

Nicholas Ross was given crown presentation to the provostship following the resignation of Alexander Gray in March 1549.⁴² James Thornton made a further effort to reclaim the benefice for the Thornton family later that year when he claimed that the benefice was vacant following the death of Magnus Vaus (which had taken place seven years earlier) and thus sought provision, naming Alexander Gray, Donald Munro and Magnus Vaus as his competitors,⁴³ but there is no evidence that Ross's possession was disturbed by this. Unlike the other litigants within Scotland, there is clear evidence that Ross retained the provostship well beyond the Reformation.⁴⁴ The dispute has been described as a "rapid line-up for that office" suggesting unsettled times in the north.⁴⁵ This was a substantial dispute by any standards, and indicates the determination of at least one of the Scottish procurators. Thornton may have had some hold on the office in the mid-1540s. At the same time, his main opponents appear to have been men with local connections. Munro may have been a member of the Munro of Foulis family. Nicholas Ross was himself the son of a chaplain of Dunskeath and in turn became the chaplain.⁴⁶

Another dispute in the 1540s which involved the crown serves to provide a link between the exercise of royal powers and those of lay patrons, the crown in this case presenting the challenge to the patron. This arose over the provostship of Dumbarton, which was at the presentation of the Stewart earls of Lennox, whose involvement with the

⁴² 20 Mar.1549 (RSS,iv,no.166).

⁴³ 16 Sept.1549 (Reg.Supp.2670,f.236-236v).

⁴⁴ Fasti, 374.

⁴⁵ R.W.Munro and J.Munro, Tain through the centuries (Tain, 1966), 31.

⁴⁶ W Taylor, Researches into the history of Tain (Tain,1882), 51;
W.MacGill, Old Ross-shire and Scotland in the Tain and Balnagown documents, (Inverness, 1909-11), 5.

English during that time led to intervention by Arran's government. Robert Stewart may have held the office since 1530, having moved to the provostship from the parallel post at Lincluden, and was certainly in possession by 1539.⁴⁷ Although he was presented to the bishopric of Caithness in 1541, he clearly intended to retain this office as well for, on 25 November, he asked the pope for a new provision, stating that he had previously obtained it by ordinary authority and was of noble birth.⁴⁸ The provostship then became a source of dispute between the French and English parties at court following James V's death, along with the bishopric of Caithness which was also being sought by Alexander Gordon, brother of the earl of Huntly.⁴⁹ Stewart claimed in May 1543 that he had offered the provostship to Gordon even though the earlier story put about by Gordon that this was the case "was nocht in verite." That a certain amount of compulsion had been required to get him to make the offer is clear from his claim that this was for the sake of concord and "for na titill of rycht." The pressure seems to have come from "my lord of Sutherland (John Garden), Robert Carnegy and other frends of my compeditouris convenit in Perth."⁵⁰ Stewart was brother to Matthew Stewart, fourth earl of Lennox, and both of them were actively involved with the English at this time.⁵¹ The earl of Arran was clearly trying, with the support of Huntly, to oust the Lennox Stewarts from their various positions, including those in the church. In July 1544, David Hamilton was given crown presentation to the

⁴⁷ Fasti, 365,353.

⁴⁸ Reg.Supp.2439,f.162v-163.

⁴⁹ See above .

⁵⁰ Mary of Lorraine Correspondence, 12-13, no.x.

⁵¹ Mary of Lorraine Correspondence, 13n,72,81; Donaldson, Scotland: James V - James VII (Edinburgh, 1965), 68-70, 72-75.

provostship, supposedly vacant by Stewart's inability.⁵² This was repeated late the following year, because of "forisfacturam on Matthew, earl of Lennox, the patron."⁵³ In the spring of 1546, the pressure on Stewart was intensified, when the council heard that Hamilton was in possession of the provostship "owing to the departure of Robert (Stewart) to England, his remaining there in time of war, bringing of Englishmen to the herschip and byrnyng of Arrane, Bute and Ergile" and being at the horn for not finding surety to underly the law.⁵⁴ Stewart submitted to the council on his return in mid-1546, admitting that he had been in England unlawfully, and submitted himself to the governor and the privy council, which decreed that the governor should have the appointment to the provostship and Robert should obtain "of samekle rent be yeir as he had at his departing out of Scotland."⁵⁵ His petition to the Privy Council to be allowed to retain the fruits and emoluments pertaining to the benefice received a sharp answer on 15 September. The Council stated that the governor felt that he had no obligation to Robert, since he had refused to stand at his submission and obligation to abide by any council ruling after the council had decreed that he should leave all benefices held by him before he went to England. He would therefore only receive an annual pension of as much profit as he might "spendit baith of his bishopric and provostrie at the time of his departing furth of this kingdom".⁵⁶ Despite this refusal by the council to reinstate him and further attempts to unseat

⁵² 8 July (RSS,iii,no.863).

⁵³ 31 Oct. 1545 (RSS,iii,no.1373); 31 Oct.1545 (RSS,iii,no.1394).

⁵⁴ 9 April (ADCP, 545-6).

⁵⁵ 16 July 1546 (ADCP, 553-4).

⁵⁶ RPC,i,41; LP Henry VIII, xxi, part 2,no.103.

him by David Hamilton in December 1547 and July 1554,⁵⁷ Stewart appeared still as provost in 1547 and in 1564; he did in fact retain the benefice through the Reformation until 1570.⁵⁸ This long-drawn out dispute illustrates the ability of a powerful patron to hold out against massive pressure from the crown. Although the power of the crown was severely circumscribed during Arran's time as governor by rivalries at the court, the fact remains that Stewart managed to hold off at least in the long-term, the challenge from the Hamiltons exercised through royal powers.

Laymen (and in a few instances women) were indeed responsible for the foundation of the majority of these churches. There are a number of examples of the unchallenged use of patronage by the heirs of the founders. The collegiate church of Bothans, for example, was founded jointly by Sir William Hay, sheriff of Peebles, Thomas Boyd, Eustace de Maxwell, and Dougal McDowell, co-lords of Yester and patrons in turn of the church.⁵⁹ John Hay, Lord Yester, used his patronage to secure the provostship for his brother, Thomas Hay, in 1538. Robert Walterstoun had held the benefice at least since 1513; on 18 January 1538, he appointed procurators to resign in favour of Thomas Hay, while reserving the fruits to himself.⁶⁰ Three months later, he did cede the benefice in the hands of the pope, and Thomas Hay, a canon of the church as well as brother to Lord Yester, successfully asked for provision. It is clear that this was a move intended to secure the succession rather than an actual appointment, for Robert was to retain

⁵⁷ 16 Dec.1547 (RSS,iii,no.2561); ADCP,635.

⁵⁸ 24 Mar.1547 (ADCP, 564); Fasti, 353.

⁵⁹ Cowan and Easson, Medieval Religious Houses, Scotland, 215-6.

⁶⁰ Fasti, 343.

the title of provost and the rule of the church along with the fruits of the provostship and the right of regress in the event of a vacancy although, given the length of Walterstoun's previous tenure, he may well have been at least of middle age.⁶¹ In January of the following year, he sought a new provision to the provostship and correction of the fruits.⁶² Although Walterstoun appeared again as usufructuary in 1542, it seems likely that he died soon afterwards, for that is his last appearance and Hay was named as provost until his own death in 1547. He was himself succeeded by his nephew, also called Thomas Hay, who seems to have held it for over ten years.⁶³

Other - if less clear - indications of the use of powers of patronage by the heirs of founders are seen with appointments to the headships of the churches of Seton and Guthrie. John Williamson, was appointed sometime before 1533 as provost of Seton, but he felt the need to seek a new provision in 1536, he said that he had been appointed by the patron, Lord Seton. Whatever his links with the patron, he was able to maintain his hold on the office until after March 1548.⁶⁴ James Strathauchin adopted the same approach following his ordinary provision as provost of Guthrie at the request of the patron, Alexander, Lord Guthrie. In May 1537, he asked for a new provision from the pope because some doubted the validity of his possession, and it seems reasonable, since local records provide no evidence to the

⁶¹ 28 April 1538 (Reg.Supp.2305,f.162-163v); Provision to Hay (Reg.Vat.1520,f.159-160v); Reservation to Walterstoun (Reg.Lat.1681,f.269v-272v).

⁶² 23 Jan.1539 (Reg.Supp.2317,f.97-98). The letters from Beaton, as archbishop, to those constituted to institute Hay as provost is dated 16 Feb.1539 (Yester Writs,no.541).

⁶³ Fasti, 344.

⁶⁴ 6 Jan.1536 (Reg.Supp.2203,f.185-185v); Cowan and Easson, Medieval Religious Houses, Scotland, 226; Fasti, 373.

contrary, to assume that he successfully retained possession of the provostship.⁶⁵

As has been seen in the case of Dumbarton, patronage by noble families was not always exercised unchallenged. That was perhaps a special case, touching on issues of power at a national level. The dispute over the provostry of Dunglass in East Lothian, however, had a more local cause, the marital history of Agnes Stewart, mistress of James IV, as well as wife successively of Patrick Hepburn, earl of Bothwell, Alexander, Lord Hume, Robert, Lord Maxwell, and Cuthbert Ramsey.⁶⁶ She obtained some interest in the office through her marriage to Lord Hume, descendant of the founder of the church.⁶⁷ His brother and successor, George, Lord Hume, presented Abraham Crichton to the provostship on the death of George Ker, the previous provost, and Crichton then asked for a new provision on 19 March 1536, stating that some doubted the validity of his institution by the ordinary.⁶⁸ A rival had already appeared in the form of John Chisholm, who had been appointed by Lord Maxwell and his spouse, as patrons, and was apparently in possession by February of that year.⁶⁹ The presentation had probably been made in reality by Agnes Stewart. In January 1530, Lord Hume had asked that he should be allowed to give the lands and place of Dunglass to Robert, Lord Maxwell in the name of his wife, and Lord Maxwell to promise to maintain it.⁷⁰ Agnes Stewart may have been

⁶⁵ 2 May 1537 (Reg.Supp.2242,f.40-40v); Cowan and Easson, Medieval Religious Houses, Scotland, 222.

⁶⁶ Scots Peerage, iv,456, vi,480, ii,156-7.

⁶⁷ Cowan and Easson, Medieval Religious Houses, Scotland, 219.

⁶⁸ Reg.Supp.2206,f.169-170.

⁶⁹ 11 Feb. (ADCP, 450).

⁷⁰ 4 Jan. (ADCP, 319).

claiming patronage because of this transfer of land. On the same day as Crichton asked for papal provision in March 1536, John Carnour (which seems to be an error for Chisholm) also sought a new provision, claiming that he had been presented by Agnes Stewart with her husband, Robert Maxwell, earl of Nithsdale, assenting. The ordinary had refused to institute him and he was now appealing to the apostolic see.⁷¹ Chisholm appeared in possession in the middle of the following year.⁷² Crichton was still, however, litigating over the provostship, and a settlement was finally reached between them in August 1537. In the petition asking for papal confirmation of the agreement, it was stated that Agnes Stewart had the patronage of the provostry for life (which supports the explanation for her activity given above), that Chisholm had been given ordinary collation and institution, but that he now resigned in favour of Abraham Crichton, the nominee of Lord Hume and Douglas, who had a "pretended right of presentation". A pension of 120 merks Scots was to be assigned to Chisholm from the fruits and, if this was not paid, John was to obtain regress to the benefice.⁷³ Agnes Stewart gave her assent to this settlement. Despite the statement in the petition that Chisholm had received ordinary institution, this is unlikely. The earlier statement that the ordinary had refused to institute him (if the identification is correct) may be explained by the fact that Crichton had close connections with the Beaton family, working successfully for both James and his nephew, David,⁷⁴ Crichton clearly managed to retain possession

⁷¹ 19 Mar. (Reg.Supp.2206,f.170-171); he sought a new provision again on 8 July 1536 (Reg.Supp.2219,f.99v).

⁷² 15 July 1537 (RMS,iii,no.1695).

⁷³ 27 Aug.1537 (Reg.Supp.2258,f.213-214v); Provision to Crichton (Reg.Vat.1502,f.10v-14v); Reservation of pension to Chisholm (Reg.Vat.1496,f.280-282); Resignation, 27 Aug. (PRO 31/9-33/70-71). Another account appears in St.A.Form,ii,50-55.

⁷⁴ Sanderson, Cardinal of Scotland, 98.

undisturbed thereafter, as he appears in this office several times between 1537 and his death in 1565.⁷⁵

The provostry of the collegiate church of Abernethy, founded by the earls of Angus through marriage to a daughter of the lord of Abernethy,⁷⁶ provided a dispute of a different kind, linked with one of the prebends in the church. The provostship had been held by Thomas Boyd from 1528, but other contenders were becoming active. In May 1542, John Spittal asked for provision to the benefice, claiming that it was vacant by the simony of William Shaw.⁷⁷ Shaw, however, himself petitioned as provost on the same day for dispensation not to be required to be promoted to holy orders for seven years.⁷⁸ A third candidate, Francis Bothwell, already prebendary of Colsy and Balmanno, asked to be provided to the provostship a few weeks later, giving the same cause of vacancy.⁷⁹ In 1542, however, a simoniacal transaction regarding the prebend which Bothwell held, but which affected the dispute about the provostry, was brought to light at Rome. The details of the arrangement began to emerge in a petition from Francis regarding the prebend, dated 19 June. He claimed that Shaw had persuaded him to resign the prebend to the ordinary in exchange for sums of money. Bothwell clearly now wished to escape the consequences of this action: he sought absolution for his action and from the censures which he had thus incurred, asking for a new provision to the

⁷⁵ Reg.Supp.2266,f.181; St.A.Rent.,184; Fasti, 356.

⁷⁶ Cowan and Easson, Medieval Religious Houses, Scotland, 215.

⁷⁷ 25 May (Reg.Supp.2455,f.255v-256).

⁷⁸ Reg.Supp.2455,f.259v-260.

⁷⁹ 20 June (Reg.Supp.2461,f.218-218v). Bothwell had obtained the prebend around 1538, when he petitioned for a new provision to it on 28 April (Reg.Supp.2285,f.177-177v).

prebend.⁸⁰ He was not alone in seeking the benefice for, on the same day, Richard Haldane asked for provision to the prebend, claiming that Francis had been deprived because of his pact with Shaw.⁸¹ When Francis Bothwell tried to obtain provision to the provostry again later that year, he gave further details of the arrangement, stating that he had received cloth, wool some money and a horse, the total value being £40 Scots, and a grant of the use of the fruits of the prebend. Again, Francis asked to be absolved from censures and stated that he would accuse Shaw in court, when asking to be provided to the provostship.⁸² Bothwell seems to have been determined to retain both the provostship and the prebend, but there is no indication that he succeeded in transferring the blame for the simony to Shaw, as he clearly intended to do, and his claims proved unsuccessful in both cases. He failed to become provost, while Shaw obtained that office in 1550, after Boyd resigned.⁸³ He also seems to have failed to retain the prebend: by 1549, it was held by two members of the Monypenny family.⁸⁴

The supplications and bulls in the Vatican series provide no evidence for appointments to the provostships in the small number of burgh collegiate churches during this period. This may be due to the accident of when vacancies occurred: no appointment was made to

⁸⁰ Reg.Supp.2461,f.20-20v.

⁸¹ 19 June (Reg.Supp.2461,f.202-202v).

⁸² 24 Sept.1542 (Reg.Supp.2465,f.225v-226); 5 Dec (Reg.Supp.2474,f.263-264).

⁸³ Fasti, 342.

⁸⁴ 14 Feb.1549 (Reg.Supp.2652,f.193v).

St.Giles in Edinburgh at this time, for example. It may also reflect the power of the burgesses with whom patronage lay. In these churches, whilst there was a tendency to "emphasize the need to staff such churches with priests well qualified to sing in the choir" the patrons did not forget "to provide for the clerical members of important burgess families".⁸⁵ This was perhaps particularly true of those patrons' own families. The collegiate church at Cullen, for example, included amongst its founders John Duff of Muldavit, a baillie of Cullen.⁸⁶ In December 1545, George Duff, already chaplain to the provost, was given presentation to the provostry itself, while the fruits remained meantime with William Elphinstone, then provost and vicar of Rathven on whose fruits the provostry was based.⁸⁷ The reason for the crown presentation is not, as in earlier cases, clear. What is known is that he retained the office until 1575, presumably at some stage acquiring the fruits as well as the title.⁸⁸

The predominance of lay patronage of the collegiate churches made it likely, not only that patrons would seek to appoint members of the family to the headship of houses at their presentation, but also that the custom of passing these benefices between members of the same family¹ by resignation would be very common. There are indeed examples of such transfers within families; what is noticeable is that, during this period, the families of holders experienced difficulties in carrying the

⁸⁵ D.E.R.Watt, "Collegiate churches", 79.

⁸⁶ Cowan and Easson, Medieval Religious Houses, Scotland, 218.

⁸⁷ 8 Dec.1545 (RSS,iii,no.1420).

⁸⁸ Fasti, 351.

process through successfully. The attempt to transfer the deanery of Restalrig from John Sinclair, dean from 1542, to James Lauder, his nephew, for example, provides a mild example of this, running into trouble after a smooth start. Sinclair received a crown licence to resign in favour of Lauder on 5 April 1547, while reserving the fruits, honours and dignities along with the right of regress, and giving Lauder the right to purchase the office at Rome, and a letter was sent to the pope on the same day, stating that John would lose little by the resignation.⁸⁹ That this was indeed the case was indicated by the contents of the petition two months later, successfully asking for James to be provided to the deanery on Sinclair's resignation: the reservations included not only the fruits, jurisdiction and authority and the administration of the church, but also everything belonging to the deanery, prebends, churches and chapels, lands, houses, fishing, pasturing and the right to set in feu the church lands until his nephew reached his nineteenth year.⁹⁰ It may be indicative of some tension between uncle and nephew that it was over a year, in August 1547, before they obliged for the appropriate annates.⁹¹ Within a few days, they were said to be litigating at Rome over the benefice, Lauder being described in a note attached to the papal process as Sinclair's future successor.⁹² The cause of the dispute is unfortunately not stated: it is possible that some problem had arisen over the financial details of the transfer. Lauder cannot have expected to succeed rapidly to the full enjoyment of his new office. He was in his fifteenth year at the time

⁸⁹ RSS,iii,no.2237,2238.

⁹⁰ 27 June 1547 (Reg.Supp.2618,f.146-146v); Provision to Lauder (Reg.Vat.1678,f.47-48v); Reservations to Sinclair (Reg.Lat.1786,f.368-371).

⁹¹ 3 Aug., Lauder (PRO 31/9-33/243); Sinclair (PRO 31/9-33/242-243).

⁹² 6 Aug.(HMC,55, Reports on Manuscripts in various collections, 68)

and, since Sinclair remained in practical possession until his death in 1566, he must have been of no more than middle age at the time the arrangement was made. However, the succession was assured, and Lauder became dean and retained the office till his own demission in 1573.⁹³

An attempt by the Bothwell family to retain the provostry of St.Mary of the Fields in Edinburgh was less successful. At the end of the day, the family was only able to salvage a pension from its scheme to ensure the succession of Francis Bothwell to his uncle, Richard Bothwell, who had held the office since 1523. Richard Bothwell resigned the provostship and the perpetual vicarage of Livingstone which was united to it in the hands of the pope in March 1536, and together they asked that Francis should be provided, while Richard should retain all the fruits, teinds and other emoluments and the right of regress in the event of any vacancy.⁹⁴ The first indication of difficulties may be represented by Francis's request for a new provision in early May, when he said that the validity of his possession had been questioned by some.⁹⁵ It seems likely, however, that this transfer between uncle and nephew would have been accomplished had Francis not become involved in a simoniacal transaction over the prebend of Colsy and Balmanno in 1542.⁹⁶ As a result of this, Richard Bothwell asked for a new provision on 19 June, claiming that he had obtained regress when Francis was deprived as a result of his simony.⁹⁷ His possession was indeed insecure

⁹³ Fasti, 370.

⁹⁴ 19 March (Reg.Supp.2208,f.105-106); Provision of Francis (Reg.Lat.1642,f.343v-347v); Reservation of fruits and regress to Richard (Reg.Lat.1642,f.341-343).

⁹⁵ 5 May (Reg.Supp.2225,f.235-235v).

⁹⁶ See above, p.347.

⁹⁷ Reg.Supp.2461,f.19v-20.

for, on the same day, Robert Cairncross, who had been abbot of Holyrood, bishop of Ross, also asked the pope for provision, stating that any provision to Richard or Francis was null and void as a result of their inhability.⁹⁸ This was unsuccessful, and Richard Bothwell retained possession for a further year until June 1543, when he resigned possession in favour of John Spittal, who petitioned for papal provision.⁹⁹ Less than two months later, however, Spittal himself resigned the provostship back to the pope in favour of Richard, and John, Richard and Francis together asked successfully for Richard to be given papal provision, with an annual pension of 40 merks Scots to be granted to Francis during his lifetime, together with the right of regress for Spittal in the event of the office falling vacant.¹⁰⁰ Richard appears to have made no effort to save Francis's right of succession after the time of his deprivation, and to have concentrated on retaining the provostry in his own hands. Spittal, for his part, could afford to wait. Richard Bothwell was an elderly man by this time,¹⁰¹ and succession to the provostry was reasonably secure. He eventually obtained the benefice after Richard's death in 1549.¹⁰²

The failure of another attempt to transfer a headship, in this case the deanery of Dunbar, from one member of the Hay family to another was due to a much simpler factor, the death of the intended successor.

⁹⁸ 19 June (Reg.Supp.2461,f.201-202).

⁹⁹ 19 June 1543 (Reg.Supp.2489,f.171v-172); Resignation 30 June (PRO 31/9-33/153-155); St.A.Form.,ii,322-323).

¹⁰⁰ 24 Aug.1543 (Reg.Supp.2495,f.140-140v); Right of regree to Spittal (Reg.Lat.1745,f.49-50); this retrocession explains Richard Bothwell's re-appearance as provost in 1544 (Fasti,357).

¹⁰¹ Bothwell had already been dispensed from having to attend the court of session because of his age and health on 11 March 1540 (ADCP, 485-6); Midlothian Chrs.,xxxv-xxxvi.

¹⁰² Fasti, 357.

The patronage of the church lay with Margaret Tudor and her third husband, Henry Stewart, Lord Methven, she having possession of the returns of the earldom of March during her lifetime.¹⁰³ The deanery was held by Thomas Hay from 1524 onwards but, in 1529, he had obtained permission from the patrons to resign in favour of his natural brother, George, with royal agreement being forthcoming the following year.¹⁰⁴ The resignation was duly made in 1531, with reservation of the title, name, all jurisdiction, a voice in the chapter, all fruits and rights to Thomas for his lifetime, along with the right of regress.¹⁰⁵ The comprehensive reservation makes it clear that Thomas was still effectively dean and that the purpose of the arrangement was solely to ensure the family's hold on the office. However, the patrons were not going to yield their own freedom of action so readily. On 19 October 1534, Margaret Stewart and Lord Methven revoked their consent, for the unusual reason of George's ingratitude.¹⁰⁶ The precise cause of their taking this action is not clear. The revocation does not appear, however, to have been successful. Steps had already been taken at Rome to strengthen the possession by the Hay family. Early in November, confirmation of Clement VII's provision of the deanery to George and the reservation to Thomas was granted by the pope.¹⁰⁷ Three years later, George asked for prorogation of the provision for six months in order to publish the letters which, because of the distance involved, could not be

¹⁰³ RMS, i. no. 1032.

¹⁰⁴ Fasti, 354.

¹⁰⁵ 21 Jan. 1531 (PRO 31/9-33/66-67, cf. 53-55).

¹⁰⁶ PRO 31/9-32/301.

¹⁰⁷ 3 Nov. 1534 (Reg. Vat. 1496, f. 90-92); Reservation to Thomas (Reg. Vat. 1552, f. 235v-236v).

published in time.¹⁰⁸ Although George did appear as dean in 1540, his brother seems to have outlived him, being named as dean in December 1552 and still holding the office at his death when he was succeeded by Thomas Row.¹⁰⁹ The failure of the patrons to enforce their will against that of Thomas Hay should also be noted.

Premature resignation with reservation of the essential powers and fruits of the office may have been used as a means of preserving family interests, but it also provided a measure by which holders of collegiate churches might protect other interests in old age. An arrangement was made, for example, by Christopher Boyd and Archibald Crawford in 1537 to secure Archibald's succession to the provostry of the church of St.Mary the Virgin in Glasgow. Boyd had held the office since 1532, having previously been vicar of Dalry, the benefice which provided the revenues for the provostship and which was incorporated in the church at its foundation in 1525.¹¹⁰ In 1537, however, Boyd resigned the benefice to the pope, and Archibald Crawford, then perpetual vicar of Dundonald, petitioned for provision to the provostry, stating that the presentation of a suitable person lay with the abbot and convent of Kilwinning, with the reservation to Christopher of all the fruits, teinds and emoluments of the office and the vicarage of Dalry, along with the right of regress, requests which were granted.¹¹¹ This provides an interesting sidelight on the issue of patronage in these benefices. James Houston, subdean of Glasgow, founder of the collegiate church and

¹⁰⁸ 13 April (Reg.Supp.2262,f.152v).

¹⁰⁹ Fasti, 355.

¹¹⁰ Fasti, 360; Glas.S.Marie Liber,6,10-12.

¹¹¹ 2 July 1537 (Reg.Supp.2260,f.298-299); Provision of Crawford (Reg.Lat.1674,f.280-283); Reservation to Boyd (Reg.Lat.1674,f.359-361v).

patron of the provostship,¹¹² was still alive. On this occasion, assuming the statement in the petition to be accurate, he appears to have allowed the previous patrons of the church of Dalry to have had some say in this arrangement. The moving spirits behind the resignation, however, were probably Boyd and Crawford, and the aim of the exercise seems to have been achieved. Crawford occurs again as provost in 1543 and held the office at least until 1566.¹¹³

II

The identification of the rights of patronage in the prebends of collegiate churches presents some extra complications. Although the original prebends remained at the presentation of the original founders or their successors, in several cases new prebends were subsequently added to such churches, and it is not always straightforward to identify patrons for these benefices.

The crown, however, remained a major patron through both the Chapel Royal and other churches which, for a variety of reasons were in royal patronage. Some of the presentations to these prebends were very straightforward. John Maxwell, for example, was presented to the prebend of Bute primo, one of six prebends endowed by James IV in the collegiate church of Restalrig,¹¹⁴ on 4 August 1549, following the death of John Raa, the previous prebendary. This was followed by a second presentation to retain the prebend along with the post of sacristan five days later.¹¹⁵

¹¹² Glas.S.Marie Liber.,6.

¹¹³ Fasti, 360.

¹¹⁴ Cowan, Parishes, 174; Cowan and Easson, Medieval Religious Houses, Scotland, 224-5.

¹¹⁵ RSS,iv, no.376,380.

The church of Lincluden provides a string of examples of royal presentations to its prebends. They include the presentation of David Christison in November 1536 to a prebend, vacant following the death of John Kennedy; the presentation of John Rig in January 1540 to a prebend previously held by Henry Morser; John Boys's presentation in November 1541 to the prebend void by the resignation of Robert Maitland; and David Gibson's presentation in February 1546 to a prebend previously held by Archibald Hamilton, son of John Hamilton of Stonehouse, who had resigned the benefice.¹¹⁶

In one instance at least, such presentations indicate relatively short tenures by a succession of holders of the benefice. This was the case with Bute Quarto, another of the prebends of Restalrig supported by the church of Rothesay. Gilbert Turnbull was presented to this prebend on 1 September 1545 on the death of John Burgane.¹¹⁷ He held it for only two years before he died, whereupon Walter Haliburton was given crown presentation to the benefice in September 1547.¹¹⁸ He demitted the prebend two years later, and Archibald Ellem was presented to the benefice on 20 November 1549, holding it through the Reformation until some time before 1568.¹¹⁹

The motivation for the appointment of these individuals is not known, and they may simply represent royal confirmation of individuals chosen by the heads of the houses or others with influence on such appointments. It is possible to suggest a more direct interest on the part of the crown to one appointment, that to the prebend of

¹¹⁶ 23 Nov.1536 (RSS,ii,no.2193); 16 Jan.1540 (RSS,ii,no.3292); 18 Nov.1541 (RSS,ii,no.4298); 6 Feb.1546 (RSS,iii,no.1574).

¹¹⁷ RSS,iii,no.1311.

¹¹⁸ 30 Sept. (RSS,iii,no.2464).

¹¹⁹ RSS,iv,no.500; Haws, Scottish Parish Clergy, 210.

Lambieletham, a prebend in St.Mary on the Rock, in 1544. In October of that year, Adam Foulis, son of James Foulis of Colinton, was given presentation to the prebend by the crown.¹²⁰ It had previously been held by another member of the family, James Foulis, who may have been his brother. Adam's father, Foulis of Colinton, had been Clerk Register before his own death sometime before February 1550.¹²¹ The specific mention of Adam's relation with his father, may indicate that his presentation owed something to his relation to a royal servant.

All these appointments were made without reference to Rome. It may be that they fell vacant in months which were reserved for the patron rather than the pope. However, on at least two occasions the holders resigned rather than died, and the scale of these appointments also suggests that there was a tendency for them to be made without any attempt to secure provision at Rome. This contrasts with the handling of appointments to the headships of these houses, where reference to Rome was still probably the normal procedure. The treatment of prebends in this way was not universal, however. When John Dennistoun was put forward in 1531 for the prebend of Dysart, a prebend of St.Mary on the Rock, the appointment was put to the pope. Dennistoun provides an example at this level of a feature already discussed in relation to the headships of these houses: he was a royal servant, subsequently serving as one of the collectors of taxes granted for the defence of the borders in 1540, an auditor of the Exchequer in 1543, and keeper of the signet in 1547.¹²² James V wrote to the pope on 28 March 1531 asking that Dennistoun be appointed if the pope would, at the same time, promote William Colville, the parson of Dysart,

¹²⁰ 13 Oct. (RSS,iii,no.918).

¹²¹ Inchcolm Chrs, 131-2.

¹²² ADCP,568,561; ER,xviii,33.

to the abbacy of Culross.¹²³ The reference to Rome may in this case have been caused by the link with the abbacy. Whatever the cause, the request was clearly successful since, in April 1535, John himself asked to be dispensed for a further two years not to take priest's orders, having already obtained a dispensation from Clement VII for two years.¹²⁴ Nine years later, he was still in possession, holding the prebend along with the archdeaconry of Dunblane.¹²⁵ He retained the prebend until his death in 1547, when his natural brother, Robert, was given crown presentation to the benefice.¹²⁶

As with the headships, the crown also exercised patronage to a number of prebends as a result of the forfeiture of certain nobles. The prebend of Duns, for example, in the collegiate church of Dunbar, which came to the crown following the forfeiture of the earl of March in 1435, was one such. Archibald Hume was presented by the crown to this benefice in November 1544 after the death of James Somerville, and he retained it at least until 1572.¹²⁷

This royal right of presentation to the prebends of Dunbar also enabled the crown to exercise the patronage to the archpriestship of the collegiate church. This benefice seems to have been held along with the provostship of Bothans for a number of years. Robert Watterston, provost of Bothans, was granted crown presentation to the office in May

¹²³ James V Letters, 190.

¹²⁴ 7 April (Reg.Supp.2167,f.252). This suggests that a supplication and possibly a bull relating to his provision may be found amongst the series relating to Clement VII.

¹²⁵ 29 May 1544 (Reg.Supp.2513,f.221v-222).

¹²⁶ 18 Sept.1547 (RSS,iii,no.2436). He held it successfully through the Reformation (Haws, Scottish Parish Clergy, 76).

¹²⁷ 15 Nov. (RSS,iii,no.972); Haws, Scottish Parish Clergy, 74).

1542 on its vacancy by the death of John Leirmonth.¹²⁸ Watterston had been provost of Bothans since 1513, and he held the archpriestship for a very short time before passing it to his successor at Bothans, Thomas Hay. He resigned the prebend to the pope in January 1543 in favour of Hay, who successfully sought provision to it with the reservation of a pension of 100 merks Scots on the fruits to Thomas Congiltoun, saying that he had royal assent.¹²⁹ Later that month, Hay also received royal presentation to the prebend at papal direction following Watterston's resignation in hands of the pope.¹³⁰ The appointment, as is the case with the deanery which was also held by the Hays continuously from 1524 to 1553, may be attributed to the Hay of Yester family's service in the government. It may also be the case that influence was exerted by Thomas Hay, the dean of the church, to secure the appointment of a member of his family to this prebend. Hay retained possession of the archpriestship till his death in 1547, when he was succeeded in both the archpriestship and the provostry of Bothans by his nephew, also Thomas Hay.¹³¹

A royal presentation to the prebend of Borthwick in 1547 was said to be because of the vacancy in the see of St.Andrews. However, since this was in lay patronage, the exercise of authority *sede vacante* would not be appropriate. The real cause may well have been that the crown was exercising the powers of patronage of Patrick Hepburn, earl of

¹²⁸ 29 May (RSS,ii,no.4666).

¹²⁹ 14 Jan.1543 (Reg.Supp.2478,f.30v-31); Reservation of pension to Congiltoun (Reg.Lat.1743,f.190v-194v). Bull for Thomas Hay to retain the archpriestship with an annual pension of £20 sterling to Watterston, 10 February 1543 (Yester Writs,no.605). Hay obliged himself for annates of provision on 26 May 1544 (PRO 31/9-33/163); Annates of the pension (PRO 31/9-33/166).

¹³⁰ 30 Jan.1543 (RSS,iii,no.66).

¹³¹ 24 Sept.1547 (RSS,iii,no.2449).

Bothwell, whose family had obtained patronage rights in the collegiate church of Crichton following the forfeiture of Lord Crichton in 1484, and who was himself in custody at this time. Whatever the precise reason, John Leirmonth was presented by the crown to the prebend on 6 August 1547, following the resignation of John Lauder, the previous holder.¹³²

All these presentations were made without challenges of any kind, so far as is known. This was not, however, always the case. There is some evidence of disputes taking place over the appointments to certain prebends. When the prebend of Ayr Tertio in the Chapel Royal, for example, was vacated by the resignation of George Clappertoun, the king's almoner, Robert Dennistoun was presented to the benefice by the crown on 23 June 1535.¹³³ According to the privy seal register, he was succeeded by William Morton at some unknown date, who in turn resigned in 1542, when James Mont was given crown presentation in March of that year.¹³⁴ Although Alexander Buchan is described as receiving crown presentation when Mont resigned nineteen months later, the original presentee, Dennistoun, was still in possession at the Reformation.¹³⁵ The picture suggested by this sequence of presentations is in fact strikingly similar to that seen with supplications to the curia, with a number of candidates seeking, and indeed receiving, at least a nominal title to a benefice. It seems likely that the same pattern was being repeated with those benefices which, for whatever reason, were not being taken to Rome for provision.

The same picture, in a much simpler form, is presented by the sequence of records relating to the appointment of prebendaries of the

¹³² RSS,iii,no.2366; Mary of Lorraine Correspondence, 190.

¹³³ RSS,ii,no.1704.

¹³⁴ 6 March (RSS,ii,no.4519).

¹³⁵ 4 Nov.1543 (RSS,iii,no.513); Haws, Scottish Parish Clergy, 59.

church of Southwick in the Chapel Royal, which supported the chancellor of the Chapel. Michael Disart, who had held the prebend since some date after 1531, was said to have died when James Hamilton was presented to the prebend on 28 October 1544.¹³⁶ This was presumably an appointment made by the Hamilton faction at court. Despite any strength given by this, the presentation seems to have been ineffective, because Disart appears again as Chancellor in the Chapel at various dates between 1551 and 1558.¹³⁷

There were also several contenders for the sacristanship of the collegiate church of Tain after James Wichand was forced to give up the office in 1539, having murdered John Bruce. In June 1539, both Florimund Hume and George Ogilvy were presented to the benefice.¹³⁸ One of them may have enjoyed the revenues for a time but, two years later, neither was mentioned when, on successive days in October 1541, Hugo Guthre "a servant of the king" and Alexander Uddert were presented to the prebend, the cause of the voidance being stated as the death of Wichand.¹³⁹ Uddert seems to have had greater success than his competitor for, when Stephen Kincaid was presented by the crown to the office on 12 February 1544, it was said to be vacant either by Wichand's death (he was said to have committed suicide), or by Uddert's incapacity or deprivation.¹⁴⁰ The final outcome of this is uncertain, but the pattern suggested is that of a number of litigants seeking to obtain some kind of right in the benefice from the crown. It should be

¹³⁶ Fasti, 338; RSS,iii,no.933.

¹³⁷ Fasti, 338.

¹³⁸ 5 June (RSS,ii,no.3041); 29 June (RSS,ii,no.3064).

¹³⁹ 4 Oct. (RSS,ii,no.4258); 5 Oct. (RSS,ii,no.4259).

¹⁴⁰ RSS,iii,no.623; the presentation was repeated on 31 July 1546 (RSS,iii,no.1772).

mentioned that the patronage of the sacrist's post lay with the provost: it may have been that uncertainty over who held the headship of the church which had led the litigants to take their case to the crown. In all the presentations, the crown is simply said to have the right of patronage.

When Andrew Bernard, prebendary of Bute Sexto in the church of Restalrig, died in 1545, three different contenders were presented within a few months. John Baxter was given crown presentation on 15 August, Henry Acheson two months later on 4 October, and William Barbour early the following year on 15 February 1546.¹⁴¹ In this case, it was William Barbour who prevailed, and he retained possession until 1580.¹⁴²

A more complex dispute occurred over another of the prebends of Restalrig supported by the revenues of Rothesay, Bute Tertio, which had been held by Hugo Congiltoun since August 1532.¹⁴³ In 1544 and 1546, it was said to be vacant by the death of Lancelot Cok, and David Hamilton and Donald Bannatyne were both given presentation, the former in August 1544 and the latter in February 1546.¹⁴⁴ Hamilton, who may have been a chaplain at Holyrood Palace and was possibly put forward by the Hamilton interest at court,¹⁴⁵ does not appear again. The Bannatyne family were represented a few years later by John Bannatyne. Congiltoun however, also appeared again in January 1547, when he was said to have vacated the benefice by his absence for more than one year, and this was the reason for voidance when Patrick Foulis

¹⁴¹ RSS,iii,no.1280; ibid,iii,no.1362; ibid,iii,no.1558.

¹⁴² Haws, Scottish Parish Clergy, 210.

¹⁴³ OPS,ii,i,222.

¹⁴⁴ 24 Aug.1544 (RSS,iii,no.893); 1 Feb.1546 (RSS,iii,no.1515).

¹⁴⁵ TA,xviii, passim.

obtained royal presentation.¹⁴⁶ Foulis received a second presentation from the crown in July 1549 when the prebend was said to be vacant by the resignation of John Bannatyne.¹⁴⁷ He was said to be dead when Lancelot Gibson was presented on 15 August, and again the following day, when John Bannatyne appears as another presentee by the crown.¹⁴⁸ Despite the apparent persistence of the Bannatyne family, it was Gibson who was in possession at the Reformation, notwithstanding a further resignation in 1551.¹⁴⁹

A link between the rights of the crown in terms of patronage and those of lay patrons is provided by the lengthy dispute between George Dury and John Leith over the prebend of Strathbrock, although it is perhaps atypical of both these rights. The church was in lay patronage, at various times at the sole patronage of the lord of Inverugie¹⁵⁰ and at the alternate patronage of Inverugie and the lord of Berandaile. The fullest account appears in royal correspondence, but this is supplemented by records of the dispute at the curia. The original dispute appears to have been between the two alternate patrons, Inverugie and Berandaile, and this was taken to Rome, where it was decided that in future Inverugie was to be the sole patron. Both

¹⁴⁶ 21 Jan.(RSS,iii,no.2118). Although the rules of residence in collegiate churches were very strict, they seem to have been ineffective (Easson,"The collegiate churches of Scotland", 200).

¹⁴⁷ 12 July (RSS,iv,no.346).

¹⁴⁸ RSS,iv,no.393; 16 Aug (RSS,iv,no.398).

¹⁴⁹ Haws, Scottish Parish Clergy, 210.

¹⁵⁰ Although erected as a prebend by the bishop of St.Andrews in 1435/6, this was with the consent of the lord of Inverugie, the lay patron.

patrons, however, died about the same time and the heirs both required tutors. When John Dingwall, the prebendary, died, in January 1532, both tutors presented candidates despite the earlier decision. John Leith was presented by the Earl Marischal, who was tutor to Inverugie; George Dury was instituted by his uncle, David Beaton. The involvement of the crown was solely because of the death of the patron who had, as a royal vassal, "alienated his part" by his death. James V's actions in regard to this dispute were, however, far from consistent. In March 1534, he wrote to the Cardinal of Ravenna, stating that, although Dury had been instituted by royal right of patronage and was surrogate to all right held by John Dingwall at his death, Leith was strongly contesting the royal right, and James asked the Cardinal to defend the royal privilege.¹⁵¹ When James wrote again to the Cardinal in November, he stated that he had presented Dury under the *ius patronatus* arising from the death of the patron. He clearly wished the matter settled in Scotland where his control over the courts would no doubt be greater than at Rome: he argued that a complicated dispute such as this could only be settled *in partibus* and the Cardinal should move to have the suit remitted for proof of this devolution of the patronage to Scotland.¹⁵² Exactly three years later, George Dury himself asked the pope for provision to the prebend, stating that the dispute between himself and Leith was, as yet, undecided.¹⁵³ Despite the pressure from the crown, John Leith was extraordinarily tenacious in pursuing his claim. On 18 January, James wrote two letters asking for a speedy end to the dispute claiming that he did not fear an unjust sentence, merely

¹⁵¹ 15 March (James V Letters, 259-60).

¹⁵² 20 Nov.1534 (James V Letters, 280).

¹⁵³ 20 Nov.1537 (Reg.Supp.2270,f.298v); the request for provision *per obitum* was repeated on 4 December (Reg.Supp.2479,f.152v-153).

injury and loss through delay. The second letter provides the first indication of James's change of heart. He stated that the only decision the auditors of the Apostolic Palace (to whom this letter was addressed) had to make was whether the Earl Marischal had the right, as the representative of Inverugie, to present Leith. The dispute about royal presentation, which Dury claimed to have, had already been settled: James meant his letters of commendation to be interpreted as meaning his support only if Dury's cause was just, but not otherwise.¹⁵⁴ In the light of his earlier letters, the king was being less than honest, and it is difficult to escape the conclusion that he had abandoned his support for Dury's cause. Two years later, Leith, who had presumably obtained possession, resigned the prebend in the hands of the pope, and David Bonar asked for, and was given, provision to the benefice.¹⁵⁵ Leith, however, obtained both the right of regress to the church if it should fall vacant and a not-insubstantial annual pension of 125 merks Scots on the fruits.¹⁵⁶ The final outcome of the dispute is uncertain, but it remains interesting as an example both of an unusual intervention by the crown arising from special circumstances, and illustrating the possibilities for disputes when the patronage could be claimed to be unclear. It is also one of the relatively few occasions when a benefice within a collegiate church attracted the attention of one of the Scots procurators at Rome. The existence of a dispute at Rome presumably provided a tempting opportunity which Bonar found attractive and, it appears, lucrative.

¹⁵⁴ James V Letters, 363-4.

¹⁵⁵ 16 July (Reg.Supp.2624,f.110-110v); Provision to Bonar (Reg.Vat.1563,f.44-45v).

¹⁵⁶ Reg.Supp.2424,f.101.

In normal circumstances, however, lay patrons were often no doubt able to exercise their rights unchallenged. During this period under review, the Maxwells of Tinwald, who retained the patronage of the church of Tinwald after it was erected into a prebend of Lincluden *ante* 1498,¹⁵⁷ used this benefice to provide for members of their family. William Maxwell was already in possession of the prebend when he sought dispensation to hold the church for life notwithstanding his age (he was under ten at the time) and from the stipulation that it should be held by someone in priest's orders.¹⁵⁸ His possession seems to have pre-dated the grant of the patronage of the church to the Maxwells in 1541¹⁵⁹ but, as they were the original patrons of the church, it seems likely that this was a confirmation of an existing situation rather than a completely new grant. It is not clear how long he held it; by 1559, it was held by Andrew Glover.¹⁶⁰

Such patrons were not always so fortunate, however. The Forrester family who were responsible for the founding of the church of Corstorphine,¹⁶¹ ran into difficulties in making appointments to the prebends of Halton and Dalmahoy, maintained from the garbal teinds of these touns, during the 1540s. Abraham Crichton, official of Lothian, was presented to one of these prebends by David Beaton, acting under his legatine authority, when it became vacant on the death of Thomas Wilkeson in April 1546. He asked for a new provision on 24 August, stating that some did not accept the validity of this provision.¹⁶² In

¹⁵⁷ Cowan and Easson, Medieval Religious Houses, Scotland, 223.

¹⁵⁸ 12 Oct.1539 (Reg.Supp.2348,f.198v); Reg.Lat.1703,f.214v-215).

¹⁵⁹ 10 June (RSS,ii,no.4052).

¹⁶⁰ Haws, Scottish Parish Clergy, 236.

¹⁶¹ Cowan and Easson, Medieval Religious Houses, Scotland, 216-7.

¹⁶² Reg.Supp.2584,f.4-4v.

this case, however, no more is heard of any opposition to Crichton's possession. The same was not to happen with the other prebend, which became vacant on the resignation, exchange or death of Alexander Galloway the following year. George Cok was given royal presentation *sede vacante* to the prebend on 23 December 1547.¹⁶³ Less than a year later, however, one of the two prebends formed from the revenues was said to be vacant by the death of Robert Marjoribanks, and Thomas Marjoribanks was also given crown presentation.¹⁶⁴ Meanwhile, Alexander Forrester, the patron of the prebend, had previously presented David Crichton to James Stewart, commendator of the priory of St.Andrews, and John Winram, subprior and vicar-spiritual in the diocese during the vacancy following David Beaton's death, for ordinary provision to the benefice when Alexander Galloway had died, but this had been refused. They were reported as having instead installed James Wilkie in the prebend. Crichton and his patron appealed to the apostolic see in December 1548 and now asked for commission of nullity and power to cite Wilkie.¹⁶⁵ The outcome of this dispute is uncertain, but it indicates that the heirs of the founder could not always rely on their nominee being provided to the prebend concerned.

Another case where, at least according to the evidence of the unsuccessful litigant, the patron's wishes were overturned is illustrated by the dispute over the prebend of Hawick in the collegiate church of Bothwell. This also shows that papal powers of deprivation were not sufficient to secure a particular appointment. During the pontificate of Clement VII, Peter Sandelands, the prebendary, and James Hepburn,

¹⁶³ RSS,iii,no.2573.

¹⁶⁴ 16 Nov. (RSS,iii,no.3028).

¹⁶⁵ 8 Dec. (Reg.Supp.2648,f.144v).

canon of Kiltearn in the diocese of Ross, had exchanged these benefices on condition that Peter also obtained a pension of £20 Scots for life on the fruits of Hawick; if the pension was not paid within the stated time, the prebend would again become vacant. John in fact refused to pay, and was papally deprived by Clement. Peter then asked Paul III in February 1540 to recognize Clement's decree of deprivation and to give him provision.¹⁶⁶ John Hepburn, however, was clearly prepared to fight to retain the benefice. On 7 July, Peter again asked for provision, claiming that John had appealed for a decree of nullity for the deprivation and that he was trying to drag the case back to the curia, despite Peter's successful letters asking judges *in partibus* to declare Peter provided. He therefore asked for a commission to uphold the judgements of the judges and to execute their citation. In February of the following year, he was seeking provision again, stating that he had the consent of the patron, Patrick, earl of Bothwell.¹⁶⁷ John Hepburn, however, still appears as parson of Hawick¹⁶⁸ and, although Sandelands obliged for the annates of the prebend during that month,¹⁶⁹ it appears that he was in fact unable to obtain the benefice until four years later. In March 1546, he asked again for papal provision, recounting the tale of appeal and counter-appeal, ending with the statement that John Hepburn had died in a reserved month.¹⁷⁰ This was probably successful, since the prebend was held in the 1550s and 1560s by John Sandelands.¹⁷¹ It seems that, despite considerable efforts on

¹⁶⁶ 25 Feb. (Reg.Supp.2367,f.12-12v); the request was repeated on 23 June (Reg.Supp.2380,f.142v-143v).

¹⁶⁷ 18 Feb.1541 (Reg.Supp.2410,f.24v-25v).

¹⁶⁸ 29 April (Reg.Supp.2453,f.82-82v).

¹⁶⁹ 22 April (PRO 31/9-33/138).

¹⁷⁰ 26 March (Reg.Supp.2576,f.55-55v).

¹⁷¹ Haws, Scottish Parish Clergy, 105.

Sandelands's part, the possible support of the patron and a papal decree of deprivation against Hepburn, he was able to retain possession till his death.

The Scottish procurators at Rome, as has been noted already, only rarely became involved in disputes over these prebends. However, James Salmond did make an attempt to secure the church of Kirkbride, a prebend of Lincluden. Archibald Dunbar, archdeacon of Moray, who had been provided by ordinary authority on its voidance by Henry Sinclair, asked for a new papal provision on 8 January 1541 because of doubt about the validity of the provision, when he said that the presentation lay with the provost and chapter.¹⁷² The following day, John Sinclair also sought provision to the prebend.¹⁷³ James Salmond then intervened in February, asking for a new provision and claiming that, although he did not have possession, he had obtained it on the strength of a papal expectative grace.¹⁷⁴ This clearly was to no avail for over a year later, in August 1542, James sought prorogation of his provision for a further year in order to bring Archibald Dunbar to justice.¹⁷⁵ Although no direct evidence has been found to determine the outcome of this dispute, what indications there are suggest that, as the man in possession, Dunbar probably retained his hold on the prebend.

¹⁷² (Reg.Supp.2408,f.129-129v).

¹⁷³ 9 Jan. (Reg.Supp.2408,f.130v-131).

¹⁷⁴ 24 Feb. (Reg.Supp.2424,f.165-165v).

¹⁷⁵ 8 Aug. (Reg.Supp.2461,f.256-256v).

It is not surprising to learn that the practice of transferring benefices within members of a particular family was adopted with prebends in these churches as elsewhere. Indeed, the circumstances of the founding of the collegiate churches and the dominance of laymen among the founders would perhaps make this even more probable. The prebend of Kinnettles in St.Salvator's College at St.Andrews, was passed in 1542 from Alexander to James Scot in this way. Alexander resigned the prebend in James's favour on 13 August and together they successfully asked the pope to provide James, with reservation of half the fruits, rights and emoluments of the prebend for Alexander for his lifetime.¹⁷⁶ James was not yet a priest and probably quite young, since he asked to be dispensed from the obligation to obtain priest's orders for seven years beyond the due time on 20 August, although he was required as a condition of a successful petition to obtain promotion to the subdiaconate within two years.¹⁷⁷ This was successful and James retained the prebend until his death shortly after the Reformation.¹⁷⁸

The prebend of Gogar, which was annexed to Trinity Church in Edinburgh, was retained within the Manderston family in the same way. Willia Manderston, who had held the church since at least 1535, resigned it eight years later in favour of his nephew, John Manderston. In May 1543, they asked the pope to provide John to the benefice, reserving all the fruits, etc. to William for life, the annates of the first year after his death for his executors, and the right of regress in the event of the prebend becoming vacant.¹⁷⁹ The transfer did not proceed as smoothly

¹⁷⁶ Reg.Supp.2463,f.109v-110; Provision (Reg.Lat.1734,f.81v-83v)..

¹⁷⁷ Reg.Supp.2463,f.109-109v.

¹⁷⁸ Haws, Scottish Parish Clergy, 142.

¹⁷⁹ 12 May 1543 (Reg.Supp.2495,f.40v); Provision to John (Reg.Lat.1743,f.73-73v); Reservation to William (Reg.Lat.1743,f.74v-75v).

as was usual in these circumstances. There was a delay in expediting the letters and, early the following year, John asked the pope to confirm an alteration in the fruits.¹⁸⁰ John Manderston appears as prebendary in March 1559 and witnessing Trinity charters during that decade,¹⁸¹ which can probably be taken to indicate successful possession.

The relationship between the two Hays who successively held the church of Idvies, a prebend of St.Mary on the Rock, is not known, but it seems probable that they were related in some way. On 24 September 1547, William Hay was given royal presentation to the church when it became vacant by the death of Edmund Hay.¹⁸² This instance differs from those described above in that no resignation had been made prior to Edmund Hay's death, but it does seem likely that family interest in the prebend may have led to William's succession, and he held the church till at least 1571.¹⁸³

The Arnot family kept the prebend of Ayr Secundo in the Chapel Royal within the family in a similar way in 1546. In November of that year, Sir Henry Arnot was given royal presentation when it became vacant by the resignation of Andrew Arnot, already archdeacon of Galloway,¹⁸⁴ and retained possession until 1571.¹⁸⁵

¹⁸⁰ 19 May 1543 (Reg.Supp.2485,f.149); 6 March 1544 (Reg.Supp.2505,f.108v). The two men obliged for the respective annates on 1 March, John for provsion (PRO 31/9-33/163-4), and William for reservation of fruits and regress (PRO 31/9-33/164-5).

¹⁸¹ Midlothian Chrs, 124-5,118,119.

¹⁸² RSS,iii,no.2448.

¹⁸³ Haws, Scottish Parish Clergy, 108.

¹⁸⁴ 24 Nov. (RSS,iii,no.2013).

¹⁸⁵ Haws, Scottish Parish Clergy, 9.

A variant on the method of transferring the title to a benefice from one member of a family to another is illustrated by the Mure family's handling of the subdeanery of Trinity church in 1544. Adam Mure, who had possession of the benefice in August, sought a new provision in October of that year, stating that his possession was not completely accepted.¹⁸⁶ The following month, however, he resigned the prebend in favour of John Dunlop on condition that he obtained the reservation of half the fruits, etc. for his nephew, once he had taken clerk's orders.¹⁸⁷ It seems likely that Adam Mure was taking an opportunity to at least secure some benefit for his family when he resigned the prebend.

There is at least one instance when a prebend passed on in the customary way was only retained for a very brief time by the new holder. When Henry Arnot resigned the prebend of Castellaw Quarto in 1546, Andrew Arnot, archdeacon of Galloway, was given royal presentation to it.¹⁸⁸ A few months earlier, however, Arnot was said to have resigned already, and Duncan Telfer was presented.¹⁸⁹ This may have been an attempt to dislodge Arnot similar to others already discussed, but it was clearly unsuccessful. The Arnot family were not, however, to retain the prebend long. In August 1547, Andrew Arnot was said to have demitted office, and James Paterson was given crown presentation.¹⁹⁰ It is possible that Arnot yielded his possession quite

¹⁸⁶ 16 Aug. (Reg.Supp.2519,f.1v); 24 Oct. (Reg.Supp.2523,f.47-47v). He was probably Beaton's secretary at the time (Sanderson, Cardinal of Scotland, 195).

¹⁸⁷ 17 Nov.(Reg.Supp.2528,f.286-286v); Resignation registered 19 November (PRO 31/9-33/177).

¹⁸⁸ 24 Nov. (RSS,iii,no.2012).

¹⁸⁹ 23 Aug. (RSS,iii,no.1861).

¹⁹⁰ 9 Aug. (RSS,iii,no.2373). Paterson may have been the sacristan and parson of Kirkinner and Kirkcowan (Hist.Chapel Royal,lviii-lix).

willingly; certainly, his tenure was clearly short-lived. The same may have been true of Paterson. On 6 October 1548, the prebend was said to be void by the death of Thomas Jarvy, when Henry Yair was given royal presentation.¹⁹¹ The sequence of presentations in close succession bears all the signs of a number of litigants seeking the prebend around the same time; the final outcome, however, is uncertain.

It is not surprising to find that the procedures followed by families were adopted by others to ensure succession in, for example, the prebend of Pinkerton in the church of Dunbar. In December 1540, Alexander Fleming resigned the benefice and John Leirmonth, rector of Torrance, was given royal presentation, apparently acting on papal directions.¹⁹² Negotiations of some kind were in progress at the curia for, on 22 February of the following year, Fleming's resignation to the pope was recorded, and Leirmonth and he asked the pope to provide John, stating that the patronage lay with the king of Scots, reserving for Alexander an annual pension of all the fruits for life along with the right of regress, and these petitions received papal approval.¹⁹³ It is not clear why the original presentation was made at papal direction, since patronage had in any case lain with the crown since the forfeiture of the earl of March in 1435.¹⁹⁴ It seems probable that Leirmonth succeeded Fleming in the fruits as well as the title in due course.

Unlike the case above, an attempt by Adam Hunter and Alexander Sandelands to secure the succession to the prebend of Kirknewton in the church of St.Giles in the same way failed, primarily because a local

¹⁹¹ RSS, iii,no.2984.

¹⁹² 17 Dec. (RSS, ii,no.3755).

¹⁹³ Reg.Supp.2416,f.22v-23v; Provision of Leirmonth (Reg.Vat.1552,f.197-198v); Reservation to Fleming (Reg.Lat.1724,f.274v-275).

¹⁹⁴ SHS Misc,vi,86, 101-2.

appointment was made without reference to Rome which in effect had the power to withstand any challenge which Hunter and Sandelands could make based on papal authority. Adam Hunter, who had held the prebend since at least 1536,¹⁹⁵ resigned the benefice in the hands of the pope in August 1547, and successfully petitioned, together with Alexander Sandelands, that papal provision should be given to Alexander, notwithstanding defect of birth and age, as the fifteen-year old son of a priest. Adam, however was to retain all the fruits, etc and the right of regress in the event of a vacancy.¹⁹⁶ Despite this papal grant, the transfer did not proceed smoothly. On 16 March 1548, Alexander asked for prorogation of the provision for six further months to publish Adam's resignation, but was given only four.¹⁹⁷ His concern was probably caused by the royal presentation on 6 February of James Brown to the prebend following Adam Hunter's death.¹⁹⁸ Despite a further attempt by Sandelands to secure the benefice by papal provision in August of that year,¹⁹⁹ Brown managed to retain the prebend till 1573, taking precedence over the attempts to use a *resignatio in favorem* to secure the succession.²⁰⁰

One family also used the more complicated process of retrocession on two occasions with regard to prebends of the Chapel Royal, which appear to be linked. In August 1546, James Paterson was given royal

¹⁹⁵ 5 June (Reg.Supp.2213,f.56).

¹⁹⁶ 28 Aug.(Reg.Supp.2619,f.19-19v); Provision of Alexander (Reg.Lat.1786,f.365-366); Reservation to Adam (Reg.Lat.1786,f.366v-367v).

¹⁹⁷ Reg.Supp.2641,f.216v.

¹⁹⁸ RSS,iii,no.2621.

¹⁹⁹ 25 Aug.1548 (Reg.Supp.2639,f.57).

²⁰⁰ Haws, Scottish Parish Clergy, 151.

presentation to the sacristanship of the Chapel Royal at papal direction, when it became void by resignation of Alexander Paterson, who nevertheless kept the fruits of the prebend with the right of regress if it should become vacant.²⁰¹ This resignation was taken to Rome in autumn of that year, although there is no mention of the reservation of fruits or the regress in the petition seeking papal provision for James, described as Alexander's nephew by his natural brother.²⁰² On 31 March 1547, however, the sacristanship was ceded back to Alexander by James through the pope, giving James the right of access in the event of voidance.²⁰³ In the absence of contrary evidence, a satisfactory outcome may be regarded as likely.

The retrocession of the prebend of Crieff Primo seems, by the dates involved, to have been linked to that of the sacristanship noted above. John Paterson was given crown presentation to the prebend at papal direction in 1546, all the fruits being reserved to his predecessor, his uncle, John Paterson, along with the right of regress.²⁰⁴ As with the previous case, the transaction was confirmed by a petition of 9 October, seeking provision for John Paterson junior.²⁰⁵ The following year on the same day as the sacristanship was retroceded, John junior resigned back to the pope in favour of his uncle, and they both asked for and received papal provision for John Paterson senior with

201 8 Aug. (RSS,iii,no.1815).

202 9 Oct. (Reg.Supp.2587,f.164v).

203 Reg.Supp.2619,f.128v, describing Alexander as James's father.; Provision to Alexander (Reg.Vat.1649,f.184-185v); Reservation of access to James (Reg.Lat.1787,f.172v-173v). They obliged for their respective annates on 6 August (PRO 31/9-33/244).

204 8 Aug.1546 (RSS,iii,no.1816).

205 Reg.Supp.2586,f.142-142v.

reservation of the right of access for his nephew.²⁰⁶ In this case, the prebend did not remain long in the family's hands for, in 1551, John Paterson exchanged the prebend for the priory of Strathfillan and Hugh Currie was successfully presented to the church.²⁰⁷

The pattern of patronage outlined above to some degree followed that set elsewhere within the church in Scotland. The crown was able to exercise considerable influence in appointments to both the headships of these churches and the prebends in them, both as a result of its own powers of patronage and by the forfeiture in earlier years of some of the families who founded certain collegiate churches. With the headships, this influence was largely used to provide members of the royal government or household with sources of income, as happened with other benefices. The appointees to prebends in these churches by the crown are, not surprisingly, less well known and may represent simply the appointment of local candidates. There is also some indication that prebendal appointments by the crown were less likely to involve reference to Rome than those to collegiate headships. Given the small scale of the evidence, it is not possible to suggest whether this was due to the timing of vacancies or to a conscious change of some kind. What is perhaps most worthy of comment is the number of occasions when a sequence of presentations of a number of individuals to the same prebend was made over a short space of time. The clear impression is given that the crown, like the papacy, was given to making presentations relatively freely, presumably in response to petitions from benefice-seekers in the country. Which of these subsequently succeeded

²⁰⁶ 31 March 1547 (Reg.Supp.2619,f.128v-129); Provision for John senior (Reg.Vat.1649,f.180-181v); Reservation of access for John junior (Reg.Lat.1786,f.373-374).

²⁰⁷ 23 December (RSS,iv.no.1448); Haws, Scottish Parish Clergy, 51.

in obtaining the prebends concerned was no doubt governed by other, perhaps more local, factors. The crown may have mirrored the curia in this respect, for this is a readily-recognized feature of supplications to the papacy. The picture of appointments by lay patrons reveals a more homogeneous picture between headships and prebends, using both to provide benefices for members of their families. Taking the benefices in collegiate churches as a whole, neither the crown nor lay patrons was able to exercise rights of patronage unchallenged on all occasions, and indeed there are a few instances when they became intertwined together in disputes. The general picture presented by these examples at least indicates, however, that such challenges were almost all unsuccessful.

Despite the strength of local power, which may have been particularly significant with many of these benefices, the rules of reservation gave plenty of scope for appointments to come to Rome, and there is extensive evidence relating to the exercise of patronage as described in the paragraph above, and to the operation of the system of reservation during this period from the curial registers. In respect of the latter, and in common with other kinds of benefices, it is clear that both families and individuals took advantage of the scope given by these rules to seek to secure untroubled transfers of possession in both the headships and prebends of collegiate churches, by both resignations in favour and, in the case of one family, by a subsequent retrocession. Equally characteristic is the evidence that these moves did not always end successfully, for a variety of reasons.

This is a familiar picture. There is, however, one respect at least in which the pattern of appointments to collegiate churches does differ significantly from the benefices in cathedrals and the parish churches. This is the relative lack of interest shown by the Scottish procurators in these benefices. This may have been due to an expectation on the part of the procurators that local claimants were more likely to be able

to resist challenges from Rome in the collegiate churches or to more accidental factors. It is one respect, at any rate, in which collegiate churches stand apart from those discussed earlier. In all but one of the few cases in which these men did contest local appointments, their claims were unsuccessful. The one exception was David Bonar's provision to the prebend of Strathbrock and, even here, we cannot be certain that he did secure the prebend in the long run. Given the massive scale of their activities elsewhere in the church, it is interesting to close this examination of appointments to benefices and the influence of the system of papal reservation and provision on these appointments with this evidence of the lack of impact on these benefices of a group of men who have loomed so large earlier in the story.

CHAPTER 8

CONCLUSION

Ecclesiastical patronage and appointments in Scotland operated within two distinct frameworks in the 1530s and 1540s, both of which involved Scottish patrons, including the crown, and the papacy. Appointments to consistorial and other elective benefices were largely determined by the agreements made by the crown and the papacy in the Indult of 1487 and subsequent developments. Elsewhere within the church, papal rights of reservation, developed over a long period, and their interplay with various rights of patronage within Scotland dominated the pattern of activity. This study has examined appointments to these two categories of benefices as illustrated particularly from the Vatican records to try to distinguish the essential features of the operation of the different systems and the light cast on the exercise of patronage. This chapter endeavours to draw out some general strands in both of these groups of benefices in order to illustrate the relationship between the church in Scotland and the papacy with regard to ecclesiastical appointments.

The pattern established for appointments to the major benefices in the early sixteenth century was of a step-by-step increase in royal power which culminated in the indults granted to James V in 1535. This led to the recognition of an explicit right of crown nomination and an extension of the period within which the king could make his presentation to the pope to twelve months, during which he could take the temporalities. It is clear that James V in particular was determined to maintain his authority, as is indicated, for example, by the practical

application of the terms of these agreements to include the deaneries and, on occasions, dependent priories, and by his clear statements made justifying such an extension. At the same time, the picture with regard to these smaller, dependent houses, is inconsistent and the scale of the extension of royal authority into this area is blurred at its limits: though some were indeed handled as though subject to the Indult, others were certainly not, and were treated as non-consistorial benefices. Set against the rights of the crown, the nominal authority of the pope was also recognized within Scotland, providing at least the possibility that the exercise of this authority could introduce an element of uncertainty into such appointments as had happened earlier in the century.

The crown was in a strong position because of the religious situation both in continental Europe and England, and James V and the earl of Arran both took full advantage of this situation. The evidence of these years indicates that both James and Arran were concerned with ensuring the appointment of men who were congenial and useful to them in various ways. Equally, financial motives loomed very large in the practical application of crown nomination at this time. This is indicated by James's appointment of his sons to monastic houses, the pensions granted to these sons from other benefices, and the moves made to ensure that temporalities of some consistorial benefices were diverted at various times to the royal treasury. The evidence that pensions granted to those displaced from religious houses to make way for his sons proved difficult to collect provides further support for this view, as does the appointment of royal servants to bishoprics, monastic headships and deaneries, which eased the burden on royal finances. Arran's options were more limited, but the appointment of members of the Hamilton family and some of his household to several consistorial benefices clearly had similar motives. Rather than taking advantage of

the lengthening of the period for nomination given in 1535, both king and governor moved relatively rapidly, on the whole, to fill these benefices because the financial equation favoured this approach.

The royal power of nomination, however, was not necessarily secure. Disputes over these consistorial and elective benefices and challenges to royal nominees there certainly were, and the crown could not rest even on its strengthened authority. With a few exceptions, however, these arose as a result of particular conditions relating to the benefices concerned rather than from clashes between crown and papacy. During the personal reign of James V, the king was able, so far as can be seen, to resist successfully all of the not inconsiderable number of challenges across the elective benefices. There is, however, a distinct change in the balance of power in Scotland between the reign of James and the rule of Arran, reflecting the essential difference between the crown and the governorship: the authority of the crown was much less when it was represented by someone other than the king. During Arran's government, his authority, often exercised in the Hamilton interest, was frequently threatened from within Scotland: by Mary of Guise, who from time to time became a challenging or dominant power within the government, from powerful ecclesiastical families such as the Beaton and, most noticeably, from lay magnates such as the Gordon family, whose co-operation was required to maintain Arran's position and the stability of the country, and who might also provide a challenge to his rule. It was from such sources that Arran faced opposition to some of his nominees for these posts. On several occasions, he had to accept defeat, as happened most significantly with the archbishopric of Glasgow and (at least temporarily) with the abbacy of Arbroath. On other occasions, he clearly had to adopt the alternative approach of appointing members of these rival families to consistorial benefices, as is illustrated by the promotion of William Gordon to the

bishopric of Aberdeen, or to allow the family concerned to transfer a benefice which it held from one member of the family to another by resignation.

Throughout the two decades, the authority of the pope was also fully accepted: the appointments to these benefices were made by papal provision. Nevertheless, its power had been weakened by the developments of the early sixteenth century: its practical influence, as distinct from its legal authority, was small. The evidence relating to elective benefices suggests three general conclusions with regard to papal practice and power. Firstly, the papacy made only a few isolated attempts to act independently of royal nomination in appointing its own nominees, the most significant being the provision of Robert Wauchope to the abbacy of Dryburgh. These provisions give the appearance of actions triggered by special circumstances or individuals rather than reflecting a general policy. They were all unsuccessful. Secondly, a comparison between the reign of James V and the rule of Arran illustrates that the papacy could, and did, still take at least limited action when conditions in Scotland provided suitable opportunities. The instability of government during the 1540s and the relative weakness of the earl of Arran noted above did provide scope for a more active papal response. This was, nevertheless, essentially reactive to events in Scotland. In contrast with the fifteenth and the start of the sixteenth centuries, the response did not, by the 1540s at least, take the form of provisions of the pope's own nominees, which perhaps indicates a recognition of the changed circumstances. Rather, it was limited to the rejection of one nomination from the governor and to delaying both provision and the release of the bulls in some cases, as happened with the appointments to Glasgow and Dunkeld. This was in reality the extent of practical papal power. Thirdly, and arising from that situation, the main thrust of papal interest became essentially

financial. Paul III, as Clement VII had also done before him, clearly hoped to be able to secure pensions for his nominees from some of these major benefices although the scale of his efforts in this cause was very small indeed: that the balance of power was heavily weighted towards the Scottish crown is shown by the fact that he only succeeded in this objective in one case, that of the favoured Wauchope. The main financial benefit to the papacy from these benefices, however, undoubtedly continued to come from the promotion taxes and the money which flowed to Rome in litigation fees from the not insubstantial number of disputes which did occur over these consistorial benefices.

The strong position of the crown and, latterly, of certain noble families in relation to these appointments had further implications. This examination of appointments to the elective benefices also provides evidence of the secularization of the church, particularly amongst the monastic houses. The appointment of James V's sons to the headships of major religious houses, involving the transfer of a significant number of existing prelates to achieve this end with its strong financial motivation, is one aspect of this trend. Perhaps more significantly, it was during these decades too that several major families consolidated their hold on the headships of certain monastic houses, illustrating another aspect of the process of ecclesiastical revenues increasingly falling into lay hands. The crown had a firm hold on some revenues of the church, both from benefices and more generally from taxation. Other important families also established their own financial interest via their hold on the revenues of several major monastic benefices.

The much greater number of non-elective benefices were subject to a different set of rights relating both to patrons in Scotland and the papacy. It must be borne in mind too that the rules of reservation

applied in normal circumstances only to eight months of the year. If vacancies occurred during the remaining months - March, June, September and December - patrons were free to make their own appointments, and records of such presentations would not appear in the Vatican documents unless disputes arose. Within Scotland, the crown had a major role at all times. Several non-elective benefices remained in direct royal patronage; others came into crown presentation by forfeiture of previous patrons: this was the case particularly with some parochial benefices and those in collegiate churches. By far the greatest number, however, fell to crown presentation *sede vacante* which, it seems, applied to all churches in ecclesiastical patronage with the exception, on the whole, of vicarages of churches appropriated to cathedral prebends,¹ and thus a majority of the lesser benefices in the church. The definition of vacancy in practice applied to the time prior to the consecration of the new bishop and could therefore cover a lengthy period. The evidence studied here clearly suggests that the crown took several opportunities to extend the scope of its rights to the detriment of other patrons, and indeed there are cases where it is not clear on what basis a royal presentation was made. The scale of crown presentation in non-elective benefices was, in total, quite substantial. There is also evidence of several presentations being made to the same benefice within a small space of time. Some of these appear, from their dates, to be the result of conflicts within the government. In other cases, particularly among the parish churches and collegiate prebends, the records of royal presentation suggest that the crown, like the pope, was being lobbied by rival petitioners

¹ Cowan, "Patronage, provision and reservation", 90. The evidence of presentations during this period generally supports this conclusion.

in appropriate circumstances, and that these multiple presentations represent the granting of a right to such supplicants rather than any guarantee of appointment. If this is the case, presentations were being used, like the granting of petitions, by claimants in order to consolidate the claim of the grantee, and presumably as a valuable weapon in subsequent disputes. Where successful possession followed, it was more a success for the claimant than for the authority of the crown.

These records also provide details of the exercise of both lay and ecclesiastical patronage within Scotland. Perhaps because the number of benefices in lay presentation was relatively limited, the direct evidence for nomination by lay patrons is quite small, although several examples have been identified. It is clear that lay influence was also exercised over such benefices by local families in less direct ways as well. The majority of the non-elective benefices in the church were, however, in the ecclesiastical patronage of bishops, chapters, prebendaries, and religious houses. Even with the extensive intervention of the crown through its rights during episcopal vacancies, considerable use of ecclesiastical patronage at least by bishops, abbots, commendators and by religious chapters (prebendaries being noticeable by their absence) can be clearly identified from the records surveyed, and it appears that these patrons were usually able to maintain their power of appointment at times when papal rights of reservation applied to non-elective benefices in their presentation. It is possible that, faced with pressure from royal rights at other times, these patrons worked hard to ensure the success of their nominees through this alternative channel.

Although it is clear that power in such appointments usually lay with these various patrons, the rules under which the system of

reservation operated, depending on, for example, the date of voidance or the resignation of the holder, made it necessary to take many of them to Rome; indeed the evidence for the exercise of such patronage largely comes from the very scale of the traffic in benefices. One papal move which might be expected to modify this picture was the series of grants made to Cardinal Beaton, and particularly the grant of legatine powers in 1544. The number of bulls available for the period is probably too small to draw statistically significant conclusions. A count of the numbers of supplications relating to benefices in each of the years of the 1540s, however, does suggest that their number did indeed drop in 1545, the one full year in which Beaton held the legateship, to about two-thirds of the numbers in, for example, 1543 and 1547. There is thus some negative evidence that the grant did slow down the scale of traffic in benefices to Rome. As has been shown earlier, however, it certainly did not stop considerable numbers of benefice transactions continuing to be handled there throughout that time.

Many of the presentations initiated by these patrons were simply and successfully confirmed by provision at Rome, leading to possession for the nominee. The system, however, was also capable of manipulation in various ways. The best-known example of this is the way in which supplicants had adapted the papal reservation of benefices which were vacant by resignation to their own purposes. Originally conceived to bring benefices into papal control, *resignatio in favorem* was used on a massive scale to seek to ensure that local wishes were followed; as such, it is an interesting example of the moulding of an administrative system by those to whom it was applied to suit their ends rather than those of its creator. It was adopted in various different forms, as has been illustrated earlier, and the particular form chosen presumably depended on the specific

circumstances of the individual case. The most intriguing variation, which has not previously been identified, was that of retrocession involving one resignation in favour of a petitioner, followed by a second resignation reversing the first. These resignations were probably used for a number of purposes. In some cases, it may have been, as Hannay suggested, to by-pass the rightful patron: Scottish procurators at Rome may have used it in this way. In most, however, it was almost certainly a pre-emptive move by the holder and an intended successor to try to secure a peaceful transfer and to prevent litigation at the curia when the benefice did become vacant. In this form, it could protect both the original holder and his successor. The reasons for the extension of the process by retrocession are by no means clear. It may have been to provide extra strength, although its relatively limited use does not support that interpretation; there is at least some evidence that it may have been used occasionally when the intended successor was relatively young and the original holder wanted the strength of a current personal provision. In their most developed form, resignations were used within families to seek to ensure that a particular benefice would remain in the hands of the family, a further form of secularization, with the benefice being seen as family property. The evidence suggests that these resignations were usually successful, but also that it was unlikely that possession within a family would actually last more than two or, at the most, three generations.

Although many of the petitions appear to have produced unchallenged possession of the benefice concerned, these records also supply extensive evidence for litigation at Rome over benefices at all levels of the church on a very substantial scale. Ironically indeed, there is some indication that the initiation of resignations of some of these benefices in the hands of the pope, intended to ensure

peaceful possession or succession, actually stimulated litigation by the very process of resignation. It is clear that James V's attempt in 1532 to have such cases heard first in Scotland was not successful: the great majority of disputes heard at Rome were suits of first instance. Much of this litigation arose as a result of several claimants simultaneously taking advantage of the openings provided by the rules of reservation, such as the death of a holder in a reserved month. Other cases reflect a clash between local rights of patronage, such as crown rights *sede vacante* and of papal rights of reservation, since both could on occasions apply to the same vacancy. No form of local patronage was exempt from challenges leading to litigation of this kind. Many of these cases were between claimants from Scotland, including some who presumably came in person to Rome. A particularly striking feature of the period, however, is the considerable activity of the Scottish procurators who were permanently resident at Rome and who were extremely opportunistic in identifying opportunities for putting forward their own claims to benefices which became available. Their activities ranged extensively over all the non-elective benefices in the church (with the exception of the collegiate churches, where their involvement was negligible) and over churches in lay, crown and ecclesiastical patronage, and on many occasions they proved most persistent litigants. Their success, however, was mixed: although they did secure some of the benefices for which they petitioned, on the whole they were not successful in doing so and, in many cases, the best they were able to achieve were pensions from the fruits. Indeed, the scale of this is such as to suggest that pensions of this kind may well have been the realistic limit of the benefice ambitions of both procurators and other litigants on some occasions at least. Resignations in favour, noted earlier as a device to ensure smooth transitions between benefice-holders, were

also frequently made not by a benefice-holder at all, but by a litigant who, realising that his chances of success were small, settled instead for a pension from the fruits in return for withdrawing from the dispute; possessors of benefices under challenge were often very willing to buy off competition in this way, since it was probably cheaper to do so than the cost of continued litigation. This picture of mixed fortunes for challenges to patrons is mirrored more generally, in cases involving petitioners from Scotland: the results of litigation clearly depended on individual circumstances. It is not possible to distinguish, on the evidence available, whether particular patrons were, or were not, likely to suffer disproportionately from challenges or were more or less likely to be able to resist them. On the whole, where direct challenges have been identified, patrons of all kinds appear to have been able to resist them successfully in the majority of cases. Nevertheless, all patrons had to work hard to maintain their rights in the face of litigation of this substantial scale. One certain beneficiary in all cases, however, was the papacy, who profited from the fees generated by the litigation at Rome.

The question why there was so much traffic to the curia and why the scale of litigation was so large remains. The existence of the rules of reservation and the consequent need for the security of a papal right provide only part of the story. The broader context suggests some further background. The over-production of clerics at the time led to anxious searching for benefices; linked with this was the evidence that what benefices were available were distributed unequally. Some evidence for this is found in the curial records, and it was a point of complaint in popular literature, as is indicated in

Dunbar's poem written at the start of the century:

"Schir, at this feist of benefice
Think that small partis makis grit service
And equale distributioun
Makis thame content that hes ressoun
And quha hes nane ar plesit na wyis

Schir, quhiddir is it mereit mair
To gif him drink that thristis sair
Or fill a fow man quhill he birst
And lat his fallow de a thrist
Quhilk wyne to drynk als worthie war" ²

The crown was a major patron even in non-elective benefices, but was not likely to cast his net wide over available claimants. Other patrons in Scotland would only provide some relief. The system of papal reservation provided an alternative source of patronage which, in these circumstances, was likely to be frequently used by benefice-seekers. All options had to be strongly investigated.

Throughout this period, the rights both of patrons and of the papacy can be seen in practical operation in the administration of appointments to benefices. It is clear, however, from this study that the effective voice in appointments, at all levels of the church, largely lay in Scotland, and that this power was increasing. It is an irony then that the crown still failed in the mid-sixteenth century, as it did in the fifteenth, to stem the flow of petitions to Rome and the outflow of money from Scotland which accompanied it. The scale of traffic and, even more significant in financial terms, the scale of litigation at Rome remained a major feature of the operation of ecclesiastical patronage.

This study began with the sources and should also end there. The evidence of these records suggests that the search for ecclesiastical preferment tended to push concern for vocation aside,

² J.Kinsley (ed.), The poems of William Dunbar, (Oxford, 1979), "To the King, quhone mony Benefices vakit", 123.

and substitute a mercenary concern for the pursuit of benefices instead. We need to be reminded that such sources are the product of their origin, and that these documents were concerned with recording the administration of a system for benefice appointments. Evidence for less mercenary motivation is much more difficult to identify, but that does not mean that vocational motives were entirely absent. Neither the curial records nor those in Scotland therefore give the whole picture. They do, however, provide a solid base for understanding the interplay of all the forces in both Scotland and at Rome relating to ecclesiastical patronage, and this study has attempted to analyze and explain in detail the practical operation and effects of these on benefice appointments in Scotland during the 1530s and 1540s, and their implications for relations between Scotland and the papacy.

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